

CA20N
Xc2
-61421



3 1761 11634098 5

ONTARIO, LEGISLATIVE ASSEMBLY.

SELECT COMMITTEE
ON

CAGE

THE MUNICIPAL ACT AND RELATED ACTS

HEARINGS ~~IN~~ ~~1961~~

1961

V. I

A. ~~WILSON~~, ~~REPORT~~.

Cye

CA2Φ1

XC2

-6/142



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

LEGISLATIVE ASSEMBLY OF ONTARIO

SELECT COMMITTEE ON THE MUNICIPAL ACT
and
RELATED ACTS

Committee Room No. 4
Parliament Buildings
Queen's Park
Toronto, Ontario

THURSDAY
July 6th, 1961

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

Chairman

MRS. H. G. ROWAN

Secretary

R. B. ANDREWS

Asst. Secretary

J.W.P. CARTER

Asst. Deputy Minister
Municipal Affairs

MEMBERS:

Rheal Belisle
Arthur Evans
George T. Gordon
Ron. K. McNeil
Donald H. Morrow
Vernon M. Singer
Thomas D. Thomas

APPEARANCES:

J. T. CROWDER
R. H. BAINARD
J. ADAMS

PRESENTATION:

BRIEF OF THE CANADIAN WHOLESALE COUNCIL

Canadian Automotive Wholesalers & Manufacturers Association
Canadian Automotive Electric Association
Canadian Wholesale Grocers Association
Canadian Wholesale Hardware Association
Canadian Wholesale Drygoods Association
Canadian Electric Wholesalers Association
Canadian Paper Trade Association
CEDA Incorporated
Drug Trading Limited
National Association of Wholesale Tobacco Distributors
& Confectioners
N.H.A.W.
Plumbing and Heating Council



CANADIAN WHOLESALE COUNCILMR. HOLLIS BECKETT, O.C. - CHAIRMAN

MR. BECKETT: Gentlemen, we thought we would set up this tape recorder system to save a lot of time in taking the minutes, and also we would have correct notes on everything that is said in connection with this matter. The gentlemen are here in connection with the Canadian Wholesale Council. I wonder, Mr. Crowder, if you would like to introduce all your members to the Committee- would that be asking too much of you?

MR. CROWDER: Some of them I don't know-most of them I know.

MR. BECKETT: Oh, then they can introduce themselves this morning.

MR. CROWDER: I have a list of the associations here that are represented here today who are members of the Council.

MR. BECKETT: Would you mind then reading it so we would have it on the record.

MR. CROWDER: Would the representatives please stand as I read their associations? Canadian Automotive Wholesalers & Manufacturers Association- H.J. Pratt, F.E. Taylor

Canadian Automotive Electric Association - W.T. Bell

Canadian Wholesale Grocers - R.H. Bainard, A. Ramey, W. Lumbers,
H. R. Berg and A. Boisvert

Canadian Wholesale Drygoods Association - W.L. Wheeler

Canadian Wholesale Hardware Association - J.W. Johnson, D. Martin,
J. I. Whitford, F. Jemmett, E.D. Bird,
Chris Murphy

Canadian Electric Wholesalers Association - A. Ugar

Canadian Paper Trade Association - I. Moffitt, L.W. Anderson

Drug Trading Company Limited - N.A. McKellar

National Association of Wholesale Tobacco Distributors & Confectioners - H. MacDonald

Plumbing & Heating Council - J. Adams, H.W. Near

Now Mr. D.C. McKellar is the Secretary of CEDA Incorporated- will you introduce the others in your group?

MR. MCKELLAR: Mr. R.J. Vogan, Mr. I.O. Mather,
Mr. H. J. Muir and Mr. Moulton.

MR. CROWDER: That is all on my list; if I have missed anyone - yes I have.

MR. WEBER: I am C.I. Weber of C.I. Weber, Wholesale Hardware from Kitchener.

MR W. LIBBY: My name is Libby from Oshawa and we represent N.H.A.W., Heating Wholesalers and this is G.W. Bouskill and L. Dayuss.

MR. BECKETT: Now Mr. Crowder, you're the gentleman we've had correspondence with; would you like to name any other spokesmen besides those you have here, Mr Bainard and Mr Adams?

MR. CROWDER: Well those are the gentlemen who have been participating in previous delegations here, and have helped prepare Briefs which have been submitted to others, to Mr. Taylor and some information has been submitted to Mr. Warrender. We've sent a copy of this draft, and if it has been read, it might be a waste of time to read it again. If it hasn't been read, maybe Mr. Bainard could read it and comment on it.

MR BECKETT: Well, Mr Crowder, we haven't had an opportunity of reading it in Committee; I think perhaps we'd better have it read now for our record and for the press. Would you care to read it or do you want....

MR.CROWDER: Mr. Bainard is the chief spokesman-Mr. Roy Bainard of National Grocers.

MR BECKETT: Very well then, you could come up here, Mr. Crowder, and sit at the end of the desk here and maybe you can assist us.

MR.CROWDER: Thank you, Mr. Chairman.

MR. BECKETT: You may sit down, Gentlemen.

MR. BAINARD: Thank you Mr. Chairman. Would it be possible to have the Committee introduced; I don't think we know the Members of the Committee.

MR. BECKETT: Yes, I'd be glad to. (introduces the Members of the Select Committee) There are a couple of Members of the Committee who are away- this being holiday season- Mr. Cowling and Mr. Singer.

MR. THOMAS: Mr. Singer is in the building; he'll be here.

MR. BECKETT: And Mrs. Rowan, our Secretary and Mr. Andrews, the Assistant Secretary. And the Press boys- do you want to tell them who you represent?

MR. MEADE: Yes, Don Meade, Canadian Press.

MR. THOMPSON: Gordon Thompson, Evening Telegram.

MR. MORROW: And our retiring Chairman, a Member of the Legislature from the City of Toronto, Mr. Beckett, who did not mention himself.

MR. BECKETT: All right, Mr. Bainard, you may proceed- if you want to take your coat off- we're very informal, and we want you to feel at home.

MR. BAINARD: One question I'd like to ask at the beginning- you've already answered one I had in mind, and that is whether this letter which Mr Crowder wrote was read; and the answer is no. Would the information which was made available to Mr. Cowling a Committee Chairman be automatically available to this Committee?

MR. BECKETT: Oh, yes.

MR. BAINARD: Was that a written submission?

MR. BECKETT: Yes; but there was also spoken submission but it wasn't recorded on the tape

MR. THOMAS: When was that?

MR. BAINARD: That was March 6th, 1958. That Committee was known as....

MR. MORROW: It was an advisory committee and Mr. Cowling is a Member of this Committee- he is not here today.

MR. BAINARD: Yes, I understand that- the reason I asked the question- I'll try to avoid any duplication- that is my reason, Mr Chairman,

MR. BECKETT: You may proceed then, Mr Bainard.

MR. BAINARD: Thank you. Well, Mr. Chairman and Gentlemen, probably there were two or three reasons why I was asked to talk today; first of all, as Mr. Crowder has said, I am the Chairman from the Wholesale Council on a committee which has been

working on this matter for quite some time. The second reason probably could be the fact that I've been engaged in this research, shall I say, on this subject for more than a quarter of a century. And the third reason is that in the figures published by the Dominion Bureau of Statistics of the Retail Trade giving the various types of trade under the heading of Retail, you will discover that food is of course by all odds the largest; as a matter of fact, it's approximately 21% of the total. So those are the three reasons I think, Mr Chairman, I find myself in this position. Well, Gentlemen, as you unquestionably know, the present Act became law in the year 1904; it replaced an Act which taxed personal property, and it's been virtually unchanged since that time, and it is a very long period of time. I would very much doubt if there is any other assessment Act which has been virtually unchanged for 57 years; because the conditions which obtain today are about as much different from those in 1904 as this day is from what normally is our temperature in the middle of January. It is wholly different. In 1904, there were no chain stores as we know them today. The nearest approach to that would be the department stores. Now in 1904, the wholesaler was certainly the predominant man in his community in the distribution of merchandise of all sorts; it would be quite impossible for retail merchants to obtain supplies without wholesalers. As a matter of fact, wholesalers at that time from Toronto and Eastern Canada sold their wares all the way to the Pacific Coast. The old firm with which I was associated sold right through to the Rocky Mountains; now today, things are entirely different. You've got chain stores in practically all the municipalities of any considerable size of population. I happened to be in a city in Southwestern Ontario a short time ago-I got ambitious after breakfast for a little walk, and I thought I'd walk down to our warehouse- and as I did I jotted down the number of lines of business which have chain representation, and here they are as I wrote them down: food stores-I'm talking now about the main street of this town- there were three large chains represented shoes, drugs-I'm not listing names of these companies-clothing,

men's clothing and suits, women's clothing and lingerie, small-
 wares, auto accessories; both large department stores in Toronto
 have mail order offices in that city; theatres, restaurants, candy,
 gasoline and service stations, tobacco; there was one branch in
 that particular of a furniture store from Toronto; I suppose you
 might call hotels and banks maybe chain representatives in a sense,
 and there was the inevitable Liquor Store- I don't know whether you
 would call that a chain store or not, Mr Chairman (laughter) it is
 most profitable anyway, I would suspect that the profits are greater
 than those in my business-I'm not sure of course. That serves to
 illustrate, Mr Chairman and Gentlemen, the tremendous change which
 has gone on in the business of distribution since 1904 when the
 present Act became law. Now presumably, because the wholesaler,
 it was thought, was best able to bear heavier tax burdens than some
 other lines of endeavour, these percentages were set up as the bus-
 iness tax; as I am sure that you gentlemen understand that means
 if you occupy premises, and your premises are worth, we'll say
 \$100,000, and your rate of business assessment is 25%, then you pay
 tax at the current rate of assessment on 25% of that value of
 premises which you occupy, whether you own them or whether you rent
 them. Now these are the percentages as I have them for the various
 lines of business; one or two have been added since 1904, in fact
 the very first one I shall mention was undoubtedly added at a later
 date, and that is supervised car parking lots- there were certainly
 no classifications of that type in 1904. Now supervised car park-
 ing lots bears a business assessment at the rate of 10% to the
 value of the property occupied. Clubs where meals are served, tele-
 phone, telegraph, bus systems, miscellaneous businesses - 25%; retail
 merchants in municipalities, where the population is under 10,000 -
 35%; where the population is 10,000 or more but is under 50,000-30%;
 where the population is 50,000 or over - 25%; newspapers in cities-
 35%; newspapers in municipalities other than cities- 25%; barristers,
 doctors, agents and like businesses - 50%; department stores,
 printers, retail lumber, wood and coal merchants-50%; manufacturers-
 60%; distributors of goods etc to more than five retail stores-

that applies to their central warehouse only; it would apply in my particular line of business to the central warehouses of the food chains- and their central warehouses and their central warehouse alone of those chains is ruled as a wholesale basis, and it is therefore 75%; wholesale merchants, banks, financial and loan companies, insurance companies- 75%; brewers-75%. And the only class that is higher than our wholesale class is distillers which are 150%. Thank goodness we're not in the distillery business. Now according to the Dominion Bureau of Statistics, approximately 60% of the total retail business in the Province of Ontario, in the food business, with which I'm intimately connected and of which I can therefore speak with some authority, was sold through chain organizations in the year 1959 as published by DBS in their brochure entitled: Retail Trade - 1959. I think 1960 figures are not available but when available they'll be higher. Monthly figures are published and the last monthly figure, which I have, is for April, 1961, and at that time, that chain figure had risen to 61.71% of the total business was through chains, and 38.29% through the independent retailer. Now I'm talking about food; if you'll take your whole average of all items reported here by DBS, the figure in April, 1961 was 25.61% through chain and 74.39% through the independent. That figure like the food figure has continued to grow higher through chain organizations each year. Now the wholesale trade, as you gentlemen well know, supply the retailers who are not chain; the wholesale trade may, in some instances, supply some small chains or an outlet of a chain distantly removed from its central warehouse, but in the main the chains have their own warehouses, and of course, they distribute directly to their own stores. You can call them retailers owning their own wholesale facilities if you wish, or I suppose you could call them wholesalers retailing. Actually they're retailers who own their own distribution facilities, and therefore in most instances, have their own distribution centres, that is, warehouses from which their trucks go out.

MR. MORROW:

I was interested to know- these whole-

sale retailers, they pay the business tax only on the retail outlet-they dont pay any on business tax on the place where they keep all their storage?

MR. BAINARD: Yes, they pay a business tax as wholesalers on their main warehouse.

MR. MORROW: On the central...all their other storage there, they dont pay?

MR. BAINARD: At the retail outlet they pay a tax as retailers, or I was going to refer to this later, but now it's come up it will be a good time to say it. Originally, all the chain stores paid taxes according to the table which I have just read in their retail establishments; about six or seven or it could be eight years ago now, one of the very active Assessment Commissioners of the County of Peel looked at one of the large chain stores and said: this isnt a retail store in the proper sense of the word- this is a department store; now the definition of a department store is a store with five or more definite departments so he promptly assessed the chain store in the town- it was Brampton, as a department store. Now the department store rating is 50%, and in Brampton their rating at that time would be, I suppose, 30% because they were somewhere between 25,000-50,000. They protested, of course, and filed their complaint and their case was heard, and they lost. But so far as I know, I would certainly suppose that since that date all the large food chains or any other large chain like auto accessories or something of that kind, if they could prove that there were five or more definite departments- separate departments- it would be assessed as a department store, which is a 50% basis but is still less than the 75% basis of the wholesaler. But on their main warehouse, they pay 75% but only on that main warehouse. Are there any other questions on that? Now from time to time, representation has been made to get some redress for what we think is a very unfair assessment; but thus far, unfortunately, with no success. I have here just a few brief notes, Mr Chairman, (shows very large heavy folder) (laughter) which I am going to show to the Committee- that's my file of Ontario business assess-

ments, and in that file there is a record of the presentations of the Briefs, of the interviews, of the discussions of all natures which I have participated in in the last over a quarter of a century. I was looking at that file a few days ago and I found that the first record in that pile was a letter written by the late S.J. Frame, who at that time was Secretary of the Metal Exchange, under date of March 8th, 1935 he wrote to the then Prime Minister, he wrote to the Hon. Mitchell F. Hepburn protesting in language pretty much the same as we're using today, Mr. Chairman, about this assessment. Now I've jotted down three or four which I think are rather salient points in the representations that have been made in connection with this matter so you'll understand what has been done. In 1938 November 9th, there was a printed petition that was signed and afterwards printed by 154 wholesalers who represented or did business in 44 municipalities; and that petition was filed with the Hon. Eric Cross, then Minister of Municipal Affairs. As a result of that, or primarily I presume as a result of that, a Private Members Bill by Mr. J.J. Glass, a Member from one of the Toronto Ridings was introduced at that time, but I wish you to note particularly, Gentlemen, that wasn't a government measure-it was a Private Member's Measure. I don't know anything about these matters, Mr. Chairman, but it is said that is a method of sometimes disposing of a contentious issue- I'm just leaving that with an observation that it be recorded on the tape as such-(laughter) on March 9th, 1950, there was a Government sponsored Bill by the Hon. Dunbar which reduced the wholesalers percentage from 75% to 50%; But just there Mr Dunbar and his colleagues of the Cabinet ran against what has been the chief stumbling block all through these years, and that is this, if you take taxes away from municipalities, what do you give them in return? And if you don't give them some return, you certainly are in trouble, aren't you? So he proposed to get over that by when he reduced the tax from 75% to 50% on wholesalers by taxing chain stores. Well you know what happens

chain stores- he was going to increase it from the 25% or 30% or 35% as it was at that time with all chain stores to 50%-well naturally the chain store men didnt like that; they sprang into action and they got the services of some of their big... some of their consumer friends, Consumer's League type of people and the articles in newspapers and other media- that bill was withdrawn. Now the next note which I have here- I'm not going to worry you with many, Gentlemen, was a Brief to Mr. Harold J. Chaters Committee; Mr. Chaters was at that time the Chief Statistician for the Province of Ontario, and unless I am mistaken, Mr Crawford of that Department was a Member of that Committee at that time- I think he was-on January 29th, 1953 a Brief was presented to him. Now that Brief was tail boated because of the fact there was a recommendation of the Ontario Provincial Ministerial Relations Committee in their report of December 19th, 1952 that there should be a province-wide uniform business tax. Well the wholesalers presented that Brief to his Committee; Mr. Chaters Committee was formed for the purpose of studying the matter, and that report, Mr Chairman, is here, and in substance that report had repeated in the representation Brief which we filed with Mr. Cowling and his Committee more recently, and it's quite a bit of it in substance...it's in the letter I'll read in a moment and which is in your hands- the Members of your Committee. In other words, what we are saying is that the situation hasnt changed all down through those years insofar as our position is concerned. Now this Brief to Mr. Cowling and his Committee, which was known as the Municipal Advisory Committee was, presented on March 6th, 1958. Just here and before I read this Brief, I'd like also to say this, that insofar as any opposition to this change is concerned, frankly we havent found any, Gentlemen, in Government circles. There's just been the one stumbling block, and I'll say presently, I think we're in a position to say something about that now-it's different than it was- and that one stumbling block is: how do you restore to the municipalities revenue which you took from them? Now the letter which we wrote to Mr. Hollis Beckett, Chairman of this Committee, and which you will have in

your hands, I'll read, and please, Gentlemen, will you be free to interrupt me and stop me and ask me any question that occurs to you as we go along. We tried to make this very brief, because we think things that are brief are more likely to be read carefully than those which are at too great length. This is written by Mr. Crowder, as Secretary of this Committee and was prepared, as he said, after consultation with wholesalers whose names he lists. (reads letter from Canadian Wholesale Council) "The business tax, as introduced in 1904 in Ontario,.....in the smaller municipalities"(bottom page 1) There are many manufacturers who sell direct to the trade, Gentlemen, and therefore they naturally take a 60% basis. (Page 2, top of page) "Ontario is the only province.....lower than this figure."(end of para 1, page 2) As you gentlemen probably know, there are many ways in which the various provinces deal with this question- they're not all uniform by any means. You have your sources of information and you'll be studying them, no doubt. (continues para 2, page 2) "Presumably, at the time this basis.....than that of the wholesalers"(end of para 2, page 2) My old home town-I was born in Elgin County out on the farm there- my old home town...who's the gentleman from Springfield?

MR. MCNEIL: I am, Sir.

MR. BAINARD: Well, if you'll take the three chain stores that are represented on the main street, with one being slightly off the main street, each of those chain stores has a larger volume of business in food than our branch over on Catherine St. Now that pretty well illustrates the position of the wholesaler as compared with the chain store. I mention that because it happens to be my home town. (continues para 3, page 2) "We submit therefore.....subject to a 75% business tax" (para 1, page 3)

MR. GORDON: Excuse me, aren't there a number of brokers who have no warehouse or storage places at all, who just have an office....?

MR. BAINARD: Yes, that's right- direct shipments; they take orders and the shipments are direct by the manufacturer

sent direct...

MR. GORDON: That's right. And they have no warehouse? And it's a tremendous business...

MR. BAINARD: None at all-just an office- and it is indeed a tremendous business and Mr Gordon would know being in the food business. They have no warehouse- they have just an office and the shipment goes direct. (continues para 2, page 3) "Increasingly, manufacturers.....Municipal Affairs" (end para 3, page 3) This letter says, and you have confirmed that the information we gave this committee is available to you gentlemen. (continues para 4, page 3) "Presumably the information.....the necessary data at any time" (end of letter) That was made brief, Gentlemen, for the purpose I have said in order that it might get read where a longer one might not. Now there is one aspect I would like to deal with, Mr Chairman, and it is this- I alluded to it indirectly when I gave you the figures showing the percentage of the total sales that are done through the independent retail trade as compared with that of the chain organization. Now if the small business man in our smaller cities -and even the larger cities- but in the smaller cities and municipalities, the villages and the hamlets of the Province of Ontario is important, as is thought in other places, then we ought to be alive to this situation. As you gentlemen know, the Federal Government recently enacted a Bill, I think it is known as C-40, as an aid to small business with the idea of helping maintain these small business men and that Bill helps make available to them, funds through the chartered banks of Canada for the purpose of expanding their business, and therefore putting themselves into a more competitive position with the large chain stores, their competitors. Now in the United States of America for quite a number of years now, there has been legislation to help the small business man- not only financially, but in other ways- advising him how he should proceed; how he should run his business. They give him accounting services and suggestions and all the rest of it. If the small business man is to be maintained, he'll have to be main-

tained, he'll have to be maintained through the wholesalers. Now, in the food business, and I think very largely too in other lines of business too-I'm referring to food- my reason for doing that- the first is that it is 21% of this whole total, and in the second place, I can talk about things with which I am familiar, and therefore I can speak with authority. But in the food business there are just two ways in the main of food reaching the consumer; it's all grown in the same places; it's all imported from the same sources- if it is imported merchandise, such as fresh fruits and vegetables; or it's grown locally. But it's all grown in the same way; it's transported to a source of collection in the same way, that is for example, the wholesale grocer such as my company buys merchandise and brings it to a great central warehouse; the chain store buys merchandise, they bring it into their warehouse. Up to that point, there is no difference in the two sources of distribution. Now at that point, you have in the one case a retail organization owning their own central warehouse, and therefore they perform the sole distribution service from that point on; in the other case, you have a wholesaler and a retailer-they're combined. Now just those two ways remain of getting food into the hands of the consumer. The consumer buys the food from a store- it may be a large store, it may be a small store. It may be owned by an independent merchant or it may be owned by a chain organization. Now those systems must be competitive, each with the other; or if they are not, the one which is not competitive will certainly not survive. On account of that fact, wholesalers, particularly in their food lines, but in other lines also, are giving any manner of assistance they can to retailers. They'll advise them on store lay-outs; they'll advise them on location; they may even go with them to the bank and help them get money; they even on occasion loan them some money if they have funds for that purpose, but they have very little because they haven't the funds for that. They'll advise them on accounting matters; they'll advise them on merchandise display; they'll arrange to send them out displays and have their man set them up or advise them on how to set them up; they'll do their ad-

vertising and they'll work with them. So on the one hand you have a chain organization which performs the full function of the central warehouse until it reaches the consumer; on the other hand you have the wholesale-retail combination. Now if the smaller retailer is to be kept in business, he shouldn't suffer a disadvantage. And if part of his set-up is a wholesaler, as it is, then that wholesale warehouse of his shouldn't be at an unfair disadvantage as it is at the present time; because the whole of the wholesalers are on a 75% basis and it is a very difficult competitive position for the retail trade as you know Mr. Gordon- you know about food. So therefore we feel that the situation, Gentlemen, demands attention, and now is an opportune time. The province- I haven't the last figures available - I ought to have secured them- but your aid to municipalities in the last two or three years has much more than doubled- or maybe five years, four years- it has much more than doubled and it increases all the time; the cost of education is one of the great reasons for the aid- additional aid to municipalities; but now that this say is in a state of flux, why don't we amend this Act and give the wholesaler the benefits to which they're entitled. We think it's unfair; we think it's inequitable and we think it's unjust, and I am sure, Gentlemen, that you will agree with me that one of the functions of good government is to remedy inequities and injustices and make things fair if they can do it. I presume that everybody will agree with that statement; and we say now is your opportunity for doing that.

MR. BELISLE: In reference to assessments, in other provinces between wholesaler and chain store, what is the assessment?

MR. BAINARD: I don't in detail know.

MR. BELISLE: Is there a greater or less?

MR. BAINARD: Well, I have said there is a greater difference between wholesalers and retailers in our province than other provinces; some provinces have a different basis of taxation entirely- as a matter of fact, I took part in a Panel Discussion down in Quebec City a couple of years ago when members were there

from all across Canada; it was a matter of business and other assessments, and afterwards, I was talking about that with some other people-now Quebec, for instance, has a sales tax and St. John, New Brunswick had a charity tax- there are various ways of taxing in those provinces. You'd have to make a study of it.

MR. SINGER: Has one been made?

MR. BAINARD: Mr. Simmonds made one...

MR. SINGER: In addition to that....

Mr. BAINARD: Yes....so....during my course of investigating this...talking about Mr. Simmonds, I've talked to Prime Ministers; I've talked to Cabinet Ministers, talked particularly to Ministers of Municipal Affairs, including the present Minister; I've talked to Deputy Ministers; I've talked to Members of the House; I've talked to Assessment Commissioners, and I have yet to find anyone who says that the situation is other than unfair, and I have yet to find anyone who says that it ought not to be changed; that being the case and that being true, and I would presume it to be true yet- I can't think of it being otherwise- then it only remains to find the means of doing it, and thus I say at the present time when things are more or less in a state of flux because of the increasing amounts that are being made available to the municipalities, then now is the time to remedy that situation. Now we're not asking for reductions down to the retail level, and we have a good case for that too, but we do not think that we should suffer more than the 50% basis, then going back to my home town of St. Thomas, we'd like to be at least competitive with the three big chain stores on the main street of that city. Are there any other questions?

MR. BECKETT: I was wondering now, Mr. Bainard, whether Mr Adams would like to follow now or.....

MR. BAINARD: Well I suppose by saying this, Mr Chairman, in spite of all of those years of frustration, I think I'm still of an optimistic nature; now it's an old saying, I think it is good Scripture that "Hope deferred maketh the heart sick", is that right? It isn't in the Scripture but it is an old saying that

"Hope springs eternal in the human breast"; I still am hopeful.

MR. MORROW: If Mr. Bainard would be willing, I think it might be helpful to the Committee if he would just remain there and let Mr. Adams come up beside him, Mr Chairman.

MR. BECKETT: Yes, that is fine. Mr. Belisle?

MR. BELISLE: I would like to ask another question of Mr. Bainard. He said a while ago that he feels that they have been unfairly treated in the past. But I asked you a question a while ago regarding the other provinces, and you said that you havent had a real study; then how can you say that you have been unfairly treated, if you dont know how the taxation...the assessment in the other provinces?

MR. BAINARD: Mr. Belisle, when I said they were unfairly treated, I'm not comparing- nor should I- compare taxation here with Quebec or Nova Scotia or any place else. I'm talking about them being unfairly treated compared with other lines of business, and those in particular with which their system of doing business is in competition- that's what I meant by being unfairly treated. And I think, Sir, that is the basis that we ought to deal with this.

MR. SINGER: Mr. Bainard, there are several things which occur to me as a result of your remarks. The first premise that you give that this is the time to change because there are additional grants been given to municipalities, I'm not quite sure that I accept; while some additional monies have come into the municipalities from the province, there is a feeling- a very substantial feeling that there isnt nearly enough money coming into the municipalities at all.

MR. BAINARD: They'll always say that.

MR. SINGER: Yes, they'll always say that, so that part of the argument, I'm not so convinced with; however the first part of your argument makes an abundance of good sense to me. I quite agree with you that these provisions of Section 9 of the Assessment Act are illogical; there is no real basis in fact, not only for a wholesaler, but for breweries and for almost any cate-

gory here. It is pretty obvious that when these sections were originally drafted, the thinking insofar as liquor was concerned was that anyone who ran a brewery was an evil person and therefore, we're going to tax him as much as we can, even though we'll let him make beer.

MR. MCNEIL: Very profitable.

MR. SINGER: On the other hand, while you can make a good case insofar as your particular group is concerned, could not an equally good case be made by the almost every category?

MR. BRAINARD: I wouldnt think so, the categories..

MR. SINGER: Well pretty close.

MR. BRAINARD: No, some others, no.

MR SINGER: The problem as it presents itself to my mind is if we recommend the change insofar as wholesalers are concerned, arent we really avoiding the overall problem? The overall problem is that this whole system- this business assessment on percentages is wrong.

MR. BAINARD: Well is not that the work of this Committee to study this matter and make recommendations on this thing?

MR. SINGER: Oh yes, yes; but because you made a case just for the wholesalers, I wanted to get your idea on that. Because frankly for myself, just changing the percentage for the wholesalers, I dont think you're tackling the problem at all. If it is going to be changed, the whole thing should be changed, and I feel very strongly that the whole thing should be changed. One thing that occurs to me is this, and I'd like to get your view on it, would there be any sense in having a business assessment at say, 50% across the board for all people?

MR. BAINARD: Well how that would work out, I dont, of course know, you'd have to....

MR. SINGER: The percentage, I just picked out of the air- the percentage that would, and I suppose we could calculate it, would return to the municipalities approximately the same number of dollars. But is there any real basis for categorizing different groups for business assessment?

MR. BAINARD: Probably not, but were you to assess 50% right across the board, you'd have some very great outcry from some of your municipalities- your retailers in those municipalities -you see you were rated on that basis. Actually this was set up...

MR. SINGER: No matter how you change it, you're going to get an outcry.

MR. BAINARD: Yes you will, but the municipalities, when that was set up at that time, the retailers of that time were much smaller, and they may not have been as well able to pay as the wholesalers. Now today, some retailers are still in that position and some large organizations are not.

MR. EVANS: Especially the small businesses.

MR. BAINARD: Yes. On the other hand.....

MR. SINGER: It's tied to assessment, it's not tied to gross sales, and the property value, so that the small man is going to have a small assessment.

MR. BAINARD: It's tied to assessment but it is called a business tax.

MR. SINGER: Yes, but it has no relation to gross sales or gross profit. There is no measure at all....

MR. BAINARD: No, nor net profit.

MR. SINGER: It's tied to assessment, and I suppose it is not illogical to assume that a man who has a small business is going to have a comparatively low assessment, because that is all his business is able to afford.

MR. BAINARD: I realize that this Committee has a very large problem; it has been said to me by people in high places in the Province of Ontario before now that there ought to be some measure of recompensing some of the small municipalities for the amount of taxes- the amount of business rather-taken from them by large organizations outside who sometimes don't even own property in those municipalities. For instance, someone sells bread-Isn't using bread because it occurs to mind-in Toronto Aurora, Newmarket and some place else, but who pays taxes in Newmarket? You see it's a big question.

MR. MORROW: Mr. Chairman, if that why there is a difference in...we had the differential between the cities and the smaller communities and the towns and villages? They pay the larger percentage- the retailer- because of their....

MR. BAINARD: Yes. They pay because of the lower value of property.

MR. MORROW: The lower value of property and the big outfits are in the cities.

MR. THOMAS: Well Mr. Chairman, I wonder if we could have a word from Mr. Carter, the Deputy Minister of Municipal Affairs- one of the experts of the Department, I think, so could we know what the Department is thinking on this.

MR. BECKETT: I dont know, Mr. Thomas whether we should have that now or wait until Mr. Adams who is going to follow on Mr Bainard and then we'll be complete on it.

MR. CROWDER: On one of the points raised by Mr. Singer, I think you can get a copy of the report prepared some years ago by the Dean of the Faculty of Economics of the University of British Columbia, who was assigned by, I think, the Canadian Tax Foundation-I'm just quoting from memory now- a most exhaustive and extensive survey of this particular type of taxation, not only in Canada but in Europe as well; and at the conclusion of his thesis or survey or report that he made, he said there is no practical way of getting this particular type of taxation to work equitably. He didnt hold out any hope for it at all. We might be able to get a copy of it for you.

MR. SINGER: Yes I think that would be a most interesting document.

MR. CROWDER: And all through this he says, you cant make this work. I'll try to get a copy for you.

MR. BAINARD: I presume the report you refer to, Mr. Crowder, is the brochure entitled: The Municipal Business Tax in Canada by Robert M. Clarke, Ph.D., Department of Economics, University of Toronto and published under date of February 29th, 1952 by the Canadian Tax Foundation-is that it?

MR. CROWDER: Was there somebody out in British Columbia working on that?

Delegate on floor: That's it, Mr Crowder.

MR. BAINARD: Yes, I think that's it. So the Canadian Tax Foundation, I presume would have available copies of it- 1952- this is a copy which I have here; it does make quite an exhaustive study of it.

MR. SINGER: Mr. Chairman, as I understand it, there are no figures available in the Department that will give us any break-down of business tax- of the various categories that produce business tax- they show a total figure for business tax and a total percentage in relation to other taxes, but they don't show, for instance, how much comes from wholesalers and how much from retailers.

MR. BECKETT: I wouldn't think there'd be that.

MR. BAINARD: I'm not sure about that, Mr. Chairman; that question was asked by...I've forgotten, Mr. Carter or Mr. Warrender, but that question was asked, you'll recall Mr. Crowder, sometime ago now-within the last two or three years, and I believe that someone in the Department was in touch with Mr. A.J.B. Gray- he was the Assessment Commissioner of the City of Toronto and the former Deputy Minister of Municipal Affairs, by the way, and incidentally, an extremely well informed man on taxation- one of the best informed men in Ontario, I think. I have had a great deal to do with Mr. Gray and I have a great respect for him; and incidentally, he agreed with us that it is an unfair taxation because he so. But Mr. Gray was asked if some figures were available and he replied at that time in the negative, but said he would make the records available to anybody who wished to come down and take them off. Now there was some thought expressed at that time, Mr. Crowder that Mr. Warrender might arrange with someone to go down and get some figures relative to the City of Toronto; whether or not it was done, Mr. Beckett, I wouldn't know.

MR. BECKETT: Well, we'll ask Mr. Carter.

MR. CARTER: The only thing I've been able to find

on our files is the 1957 figures of the City of Toronto. The total in tax dollars on the business assessment of wholesalers was computed as 50 mills- it was \$208,708.00. If it had been reduced from 75% to 50%, it would have meant .1277 mills or in other words the increased cost in realty set for \$4,000.00 would be 51¢.

MR. BAINARD: 51 mills you mean?

MR. CARTER: No, 51 cents. There is a total of 1,659,000,000- total taxable assessment in 1957, and the reduction on the wholesalers basis of assessment would have meant a reduction of 4,175,000.00 of assessment, which as I say just represents 51¢ on a \$4000.00 business assessment.

MR. SINGER: Just City of Toronto.

MR. CARTER: Just City of Toronto, yes.

MR. BAINARD: It would vary of course throughout the province.

MR. BECKETT: Then, Mr. Carter, there wouldnt be such a thing as Mr. Singer suggested- a break-down throughout the province?

MR. CARTER: Not by wholesalers, oh no.

MR. SINGER: Or by various categories.

MR. CARTER: No, just under business assessments.

MR. MORROW: Yes, that's right; we'd have to estimate.

MR. SINGER: It would be almost impossible to estimate, wouldnt it without getting statistics from each municipality.

MR. THOMAS: Mr. Chairman, those figures given by Mr. Carter, would they be regarded as fairly uniform or just for the City of Toronto? What would be your idea of the average?

MR. CARTER: The wholesalers are more scattered today in 1961 than they were even in 1957; I think you will agree with me there?

MR. ADAMS: Yes, and fewer of them.

MR. CARTER: And the impact is being lowered every

day; the total in dollars in the whole Province of Ontario has never been computed in reference to wholesalers, because of the various types of wholesalers, and there's always the legal contention- is this a wholesaler or isn't it?

MR. MORROW: Mr. Chairman, with the new retail sales tax coming in, it will be able to determine, will it not what portion of their business is retail trade and what portion is wholesale- will that sort of...?

MR. BECKETT: No.

MR. CARTER: Had an effort been made in advance, I suppose that certainly municipalities could be asked to do this if-in relation to their current rate as they went along, it wouldn't be so difficult- for instance, if they were asked to do this for 1961, if you like, they probably could do it much more easily than to go back and do it, if some good purpose could be served.

MR. SINGER: One more question, how complicated would it be, Mr. Carter, in the next municipal returns to ask for details from each municipality.

MR. CARTER: Rather than to delay, Sir, Mr. Chairman I would suggest that a questionnaire should be sent out, not just to the normal places but to every municipality- I can't see anything wrong with that.

MR. SINGER: That's a very good thought because we're talking about something...if we're going to start seriously considering changing percentages without knowing the dollar effect, we're working in the dark.

MR. CARTER: You want the classification of business assessment and you want the numbers of them and types.

MR. SINGER: And the value too.

MR. CARTER: It wouldn't take long for the local department to take that off except in the larger communities.

MR. MCKELLAR: May I say something on this ? (yes) Down in Halifax they had the same problem, and they made a 50% across the board until they found out what the revenue was, and

then they reduced it and now it's down to 47 $\frac{1}{2}$ %, but everybody is paying the same. But I think it would probably work if you sent out these forms and you'd get them all back and tally them. But I think the assessment has to compensate for everything - the things that are up and down; and also in the Act of 1904, it says if any new kind of business comes into being, it's up to the local assessor to assess them. Well there's been a lot of new business since then, one is radio; so it's the local assessor who assesses it.

MR. THOMAS: And Chain stores are new business.

MR. BAINARD: I think what Jim said having a common assessment has merit.

MR. THOMAS: Mr. Chairman, what the effect is on the local municipalities, whether it be great or small, we do not know-we haven't the figures before us. But I don't think that is of so much concern to us as Members of this Committee; the presentation here this morning is on the basis of an unjust taxation, and I think that's the thing we should concern ourselves with. Is it unjust, unfair to these people? And the effect on the municipality, I think, is secondary. The question is, is the tax an unfair one, and if it is, let's do something about it.

MR. BAINARD: Mr. Thomas, you have stated our case.

MR. THOMAS: Well, I think that is only fair.

MR. BECKITT: All right, will Mr. Adams then come forward, and you sit right down there, Mr. Adams, and you then follow along and that will complete your presentation.

MR. ADAMS: Yes, I believe so. Thank you, Mr. Chairman. May I introduce myself? My name is John Adams and the Vice-President of Finance of the wholesale plumbing and heating concern- a chain wholesaler with a head office in London, Ontario by the name of Emco Limited, formerly known as Empire Brass Mfg. Co Limited. Just at that point, I'd like to point out that we started as a manufacturer-our name was Empire Brass Mfg. Co. Ltd., and we got into the wholesale business, and now the wholesale end of the business is so large that we found it necessary to change

our name a couple of years ago, and we constructed a name up and called ourselves Emco Limited, so I am suggesting that there is an indication of a change that has taken place over the years since this Act was brought into effect. Now, Mr Chairman, my comments this morning will be very brief after the very complete presentation of my colleague. First of all in connection with Mr. Singer's comments earlier, I certainly agree, Mr. Singer, that... I suggest to this Committee that you should be looking at the whole rate structure rather than just possibly adjusting with the rate in effect for wholesalers; now obviously I haven't got my wholesaler hat on when I say that but I really question the principle of ability to pay that is incumbent in this Act. And I don't think that ability to pay is the basis on which the tax should be levied. I'm suggesting that a flat percentage rate applicable to all industry is possibly more equitable. If it is considered that there should be several rates, I'm suggesting that they should be on a much broader basis than the present basis. For example, possibly a basis applicable to manufacturers, and a basis applicable to other than manufacturers, and let it go at that. I'd like to also point out that the new retail sales tax which becomes effective September 1st, 1961, as far as our particular industry is concerned, we are considered a retailer for purposes of the tax, and will be expected to collect the tax from our plumbing and heating contractor customers; so I am suggesting that in that sense, the provincial authorities consider us retailers, but in connection with business tax, a provincial Act, we are, of course, assessed at a rate that is levied against wholesalers. Mr. Morrow, you asked a question earlier of Mr. Bainard in connection with the rates in effect in other provinces, and I think that the brochure prepared by the Canadian Tax Foundation will have that information for you. When you get that you can see the mills.

MR. BAINARD: If I may interrupt, I would suggest that the Canadian Tax Foundation would be a very useful source of information on matters of this kind. They have a great deal of information and I think it would be useful to you.

MR. ADAMS: I'd just like to tell you for a few minutes about the developments that have taken place in our particular industry in the last few years, and I know that these changes have also affected some of the wholesalers represented here; for example the wholesale hardware industry and the wholesale electrical group have been affected in the same way. Now, Gentlemen, if you would select a mail order catalogue, Simpson-Sears or Eatons, Hudson's Bay Company, you would find that you could purchase plumbing and heating supplies- sinks and bathtubs and water pumps- that sort of thing; you could purchase them in either of two ways, you could purchase them and have them delivered to your premises, and you could arrange your own installation; or congressly, if you wish, they will arrange to have them installed for you, and they will bill you for the installation charges. In other words, they will retain the contractor and assume full risk for the job. Now that is the trend that has developed in our business in Canada here in the last ten years, which we see as developing into real competition. Now we aren't afraid of competition but these people are retailers, paying a retail tax. And I would like to point out that Eatons, Simpson-Sears, Simpsons, Canadian Tire Corporation, Western Tire in London- another branch organization-all of whom have many many branches through those operations and their subsidiaries throughout Ontario, are offering this type of competition to us. This is a trend that has come from south of the border; it is now estimated that 25% of plumbing and heating material in the U.S.A. is marketed today through those channels. Now I'm not suggesting that the percentage is that high here in Canada, but it is becoming formidable; and we think that ten years from now it could very likely be a percentage of that order. Now many wholesale hardware companies and many wholesale electrical companies are being faced with the same competition. These people are being allowed to buy at the same price that we buy products from manufacturers, and they are selling at the retail level. We submit that the Act that we're here considering today creates an injustice- a competitive injustice as between that type of competition and the wholesaler. We

have one other type of competition that is continuing to increase, and that is the tendency of many manufacturers in our industry to sell our customers direct, that is, they sell their products direct to the large contractors; for example, most types of heating materials are now sold direct-furnaces, warm air furnaces in particular are all sold direct from the manufacturer to the contractor. Some types of plumbing brands are being sold direct and some types of sewer pipe is being sold direct. Now in that sense, the manufacturer is paying a reduced tax and performing the function of a wholesaler; he's carrying that stock, that inventory, some place, either at his factory or at a branch location, and running the credit risk, performing the service of the wholesaler, and we feel he is not paying the proper tax. Now, Gentlemen, those are my comments; I would be pleased to elaborate further-I don't have a file as thick as Mr. Bainard (laughter)

MR. BECKETT: Thank you, Mr Adams. Have any Members of the Committee any questions of Mr. Adams? Or Mr. Bainard?

MR. CROWDER: Could I ask Mr. Adams to comment on one point particularly for which he was invited here? I wouldn't like the Committee to get the idea that he is just talking about trifling items. I would think that the Empire Brass with its large places of business all over Ontario and elsewhere, you might be able to give us some idea as to whether or not this is a considerable sum of money we're talking about; we're not talking about peanuts. The taxes that you people are paying are a very serious amount of money-do you want to talk about that?

MR. ADAMS: Well, Mr Chairman, as far as we are concerned, I think that the business tax that our company pays on-oh we would have fifteen locations in Ontario- would be in the order of \$50,000 a year; and if there is an injustice to the extent of a third, that is the difference between 75% and 50%, then we are overpaying the municipalities one-third of \$50,000.00, which is \$17,000 a year. Now your company has many more branches than we have- how many branches do you have?

MR. BAINARD: Thirty-one.

MR. ADAMS: And some of the wholesalers here are far larger...with branch organizations in Ontario than we are.

MR. CROWDER: And then you can add two or three very large concerns, Cochrane-Dunlop, Wood Alexander and some of the others who have very large premises, and who pay taxes running into the thousands of dollars, if you're interested in that point of view.

MR. BECKETT: Any Members of the Committee any questions?

MR. MORROW: Could I ask Mr. Bainard does National Grocers Ltd., they have no retail outlet, they're strictly wholesale....

MR. BAINARD: We're wholesalers of what is usually known as dry groceries- you understand that term of course- together with fresh fruits and vegetables and frozen foods.

MR. MORROW: You dont retail anything?

MR BAINARD: No. We're not in the retail business- we're in the wholesale business. I could say in the wholesale end of the retail-wholesale group. As you know, in common with most progressive wholesalers, we link up with retailers in our efforts so that we reduce our expense to the absolute minimum-we dont have salesmen call on them; they make out their own orders, and they send the order into us and we use it to assemble the merchandise. We extend it and return it to them with their invoice. In other words, we cut all things to the absolute minimum in order to make our way competitive to the chain store. If we dont, we and our retail friends will go out of business, and so we should; we have to be competitive.

MR. MORROW: Would you be able to name other distributors in the same line as yourselves?

MR. BAINARD: Who do that sort of thing? Well, Mr. Walter Lumbers of James Lumbers Co. is here, and he is engaged-he is a good friend of ours and a competitor of ours- and a good competitor too- he's the same way too; I think Mr Berg of York Trading Co. was to have been here- another organization in the same

thing.

MR. MORROW: And I suppose Loeb in Ottawa- they're wholesale?

MR. BAINARD: No, they're not- Loeb is a wholesaler, yes, he is a wholesale tobacconist and then a wholesale grocer, and he's still a wholesale grocer of course; but he had his money invested in a large number of retail outlets...

MR. MORROW: I.G.A. stores?

MR. BAINARD: That is right.

MR. GORDON: Mr. Bainard, these voluntary chains that we're talking about and the business you have with Red and White and several others, SuperSave, Lucky Dollar and so on, each of those stores are owned by an individual or individuals. But when you speak of Mr. Loeb and I.G.A., they are now in the process and they have a number of large food markets that they own, so while the I.G.A. is a voluntary chain, it's also a...they have some captive stores that are owned by the ...

MR. MORROW: The Allied Food Market.

MR. BAINARD: The Allied Food Market is owned by another company of course; it's not Mr Loeb's, but it is the same idea -yes.

MR. MORROW: The Ottawa Food.

MR. BAINARD: The Ottawa Food is owned by Steinbergs now.

MR. GORDON: For instance in our section, the I.G.A. was taken over by T.B. Escott; they had the franchise. Well then they sold out to...

MR. BAINARD: I've forgotten to whom they sold out; but the men who are interested in it now are Mr Loeb and his associate, Mr. Daymore.

MR. GORDON: Yes, Mr. Daymore from Chicago- that's where the I.G.A. has their head office. And they now in Brantford for instance, they own a large market, and it isn't voluntary chain at all. There's a difference.

MR. MORROW: What I'm trying to bring out is that

they're in a much preferred position than your particular setup.

MR. BAINARD: Again I say our way of doing business must be competitive with the other way, otherwise we and our retail friends fall by the roadside. What we're asking is that we be put in a fairly competitive position. We think we are entitled to it, and we don't think we are in a fairly competitive position.

MR. EVANS: Being a small business man, I am very sympathetic.

MR. BECKETT: Mr. Bainard, you haven't mentioned anything about the basis of how the business tax is fixed; all you've mentioned is the fact that you should have a lower percentage. You have mentioned the fact that the tax is based on the annual rental value of property-you haven't gone into that matter at all.

MR. BAINARD: We were asked, Mr. Chairman, have been asked on other occasions to suggest a basis, and in our enthusiasm at one stage of the game- Mr. Carter will remember-we attempted to attack that problem, and what we did learn- and that was some considerable knowledge- was that we didn't know enough about it to attempt to suggest a basis, so we didn't do it. It becomes a very complex problem and demands a study of a very wide nature by experts, and we are not in that position and with that information. We are pointing out what we believe to be an unfair basis. Now there are other lines of business that may do likewise, and it has been stated that because of the formation of this Committee, a subject of wide study. What makes us a bit hopeful about this, Mr. Chairman, is that this is a Committee consisting of members of the Legislature; other committees have been appointed of an advisory nature-Mr. Chater's Committee which he chaired and Mr. Cowling's Committee, more recently, which he is chairing. But this is a Committee of Members of the Legislature itself, and you are the men to say what the law is to be.

MR. GORDON: Yes, but all we do is submit a report to the Legislature, and what happens after that is just a...

MR. BAINARD: That's quite right.

MR. MORROW: It would be a matter of Government policy.

MR. CROWDER: The government isn't going to appoint a Committee like that if they have no confidence in you or no respect for your opinions.

MR. BECKETT: Are there any other questions that you would like to ask either Mr. Bainard or Mr. Adams before we call on Mr. Carter?

MR. BAINARD: Gentlemen, if there are other questions which come to mind, we'll don't hesitate to ask them; we are as near as the telephone; or a letter will get us in a day. We will certainly answer them- any questions that we can answer.

MR. BECKETT: Thank you. Mr. Carter would you like to say something on this matter?

MR. CARTER: Well I can't speak as the voice of the Department of Municipal Affairs; I can only give you my personal attitude, not as an official of the Department.

MR. BECKETT: That's fine.

MR. CARTER: I've heard this wholesalers' approach and the distiller's too on other occasions, but the whole thing basically is wrong- this assessment is wrong. The prior administrations back to 1935 have the same apprehension and items of apprehension that we have today. And that is: How do you replace the funds to the municipalities? All administrations have been desperately loath to open up this Section at all to any form of amendment. Once they brought in income tax, personal and corporate, and this, at the municipal level, became inequitable. And the solution in my book is not to juggle as between the profits of a car park versus a distillery or a plumbing wholesaler and a chain store; it's -the problem is what will replace business assessment revenue to the municipalities, and wipe out business assessment. The justification for instance, (reads) Where a manufacturer takes on a business of a transportation system for the transportation or transmission or distribution by pipeline.....he shall not be assessed! Now I don't claim to be any mental giant, but I can't understand the exemption of that and some poor starving lawyer paying 50% on the space he occupies in an office.

MR. MORROW: It's heartbreaking.

MR. CARTER: Yes. (laughter & chit chat) Why should it say, and it has for years- this is nothing new- this goes back for at least 25 years if not more, why should it say a commercial business does not include a business carried on by operating steam boats, tow barges and tugs, nor the business of a steam railway I remember the Railway Tax Act that was repealed a few years ago, but how that gets into the municipal level- inequity- why that exemption should be there...and the person who runs a hotel, dry or wet, why they should pay a business tax to this body- well it's beyond my understanding. Now I think the main problem is should there be business assessment at all, and if there isn't, what's the alternative? Now this is exactly the same problem but on a much larger scale that was attacked in 1936, when any municipality in Ontario that wanted could have Municipal Income Tax. There was only 13 that had, and that made the problem much smaller. But to attack this on the basis of wholesalers and attack it on distillers well...premiums-we've all had this type of a run every second year for the last ...well this is the fourth time I've sat in on these things- these meetings of the wholesalers, and they point up this inequity and I thoroughly agree. I have yet to hear somebody point out that it is equitable; I have yet to find anybody who disagrees with the statement that it is inequitable. And to me, Mr. Chairman, that is the solution; not to judge the inbetween occupations. There's many a car park that could be making a 500% profit, and a big corporation will be very grateful to break even and be able to pay their shareholders 5%. It was originally an attempt to get at the profits; but it's lost its base now since we have personal and corporation income tax. Frankly I've put this up too often; I don't intend to do it again.

MR. BECKETT: Well Mr. Carter, under the British Columbia Act, the Assessment Act is part of the Municipal Act, the tax is based on the annual rental value of the property occupied.

MR. CARTER: Indirectly, that goes here too, because one of the factors in determining the realty assessment is rental value; so therefore-this is assessment so-called- is com-

puted on a percentage of the realty value, the rental factor is in it too.

MR. BAINARD: Of course they use a flat rate there, as I understand it- I was talking to Dr. Clarke in Ottawa, and at that time he told me it was 7%. I don't know whether that is right or not.

MR. CARTER: Under their Assessment Act, it won't...

MR. BAINARD: It's not on a flat rate?

MR. CARTER: That's provincial but not municipal.

MR. BECKETT: No, as a matter of fact, Mr. Bainard, what they do-it's done by a By-law, and in their By-law, they classify the businesses and trades and professions, and (b) fix the rates applicable to each class of business.

MR. BAINARD: Oh, yes that's the difference.

MR. SINGER: Without limits?

MR. BECKETT: Well, they...no without any limits.

MR. BAINARD: In other words the municipalities fix classifications, not the province.

MR. BECKETT: That's British Columbia.

MR. BAINARD: Well here- of course this was so many years ago- Mr Carter may remember where municipalities gave special tax consideration to attract new business and the province sought to remedy this situation and I think Mr Carter has succeeded. I would think that the thing you speak of would be open to objection, Mr Chairman.

MR. CARTER: But a sterling example I would like to relate- here were three maiden ladies with a huge old barn of an old store left to them by their father; it was a dry goods store and a hundred year old building. Next door to them was the order office of one of the big departmental stores. As far as volume or profit went, the little order office, which was only one-tenth or smaller, did more business in a month than the three maiden ladies did in the dry goods store in two years. And yet when it came to business tax, they were computed on the reality value occupied, not on the business, and yet the original intent of business tax

on the municipal level was to get at profits-that's why you have the scaling.

MR. BAINARD: In other word to get at volume.

MR. CARTER: No to get at profits.

MR. ADAMS: Mr Chairman, shouldnt the business tax, Mr. Carter, be an attempt to reimburse the municipality for services rendered rather than attack some profits or a tax on volume? And dealing with your mail order example, after all the little ten foot square order office doesnt require the services of the fire or the police and education and so on that the large operation run by the three maiden ladies.

MR. CARTER: No, the basic concept of community taxation is to push the charge on realty holders-not on service provided.

MR. ADAMS: But doesnt realty holding- isnt it a convenient way of determining the services that are required?

MR. CARTER: No, the basic principle of using the municipal field is that it's the least fluctuating form of basing a tax, income preparation, sales, excise or import duties- they fluctuate- whereas a good average value on property-realty-it's the least fluctuating; that's why realty is taken as the base for municipal taxation. Now when you switch back to percentage and you call it business, it is not related to services.

MR. ADAMS: Well you're saying then that ability to pay is the proper criteria, are you?

MR. CARTER: No, as demonstrated by realty holdings. Ability to pay as demonstrated by realty holdings. For instance, cost of schooling; a man can live in a three-room cottage and send ten children to school, and next door, you could have a fifteen-room house with an elderly couple in it with servants and no school children-and never have had any. You cant base it on the unit basis; you've got to base it on ability to pay as demonstrated by the holding of realty.

MR. ADAMS: So that while education is a large part of the tax, there are certainly other services rendered by the municipality which do have some relationship to the real estate

in the municipality.

MR. CARTER: Such as?

MR. ADAMS: Fire services, police service.

MR. CARTER: Well, let's take fire services. Your warehouse and your wholesale building create a much greater fire hazard than a residential area.

MR. ADAMS: I'm trying to keep this away from wholesale; I'm just speaking generally. (laughter)

MR. CARTER: On an average as an overall if the cost is apportioned on ability to pay as demonstrated by realty held; land can be devaluated by building on it- not the value increased, and yet can be a bigger fire hazard. The idea of using realty to apportion community costs is sound enough on the basic principle of less fluctuation. The greatest thing to disturb people is to start juggling the millrate up and down; so if you have a good costing rate instead of constant cost increasing rate, everybody is happy. But a business assessment based on this is just an attempt to get at profits.

MR. ADAMS: I suggest, Mr. Carter, that that is not a proper basis. I don't think the municipality should have the prerogative or right to levy tax on the basis of ability to pay. I think that our corporate tax looks after that at the federal and provincial level.

MR. CARTER: That's why I said that since 1917...

MR. ADAMS: When the tax came into effect.

MR. CARTER: When income tax came into effect in Canada, my point- I can't say for my Department or for the Government-but the big stumbling block is, what can replace it?

MR. ADAMS: I like to look at the tax-in spite of your argument, sir, as a tax being levied to reimburse the municipalities for services rendered.

MR. CARTER: Well, let's look at car parks. There are car parks to my knowledge that cause more municipal expense many a business, yet they only pay 10% on the realty tax.

MR. ADAMS: What type of expense do you have in

mind?

MR. CARTER: Police.

MR. SINGER: How long have we had business tax in the province?

MR. CARTER: I believe that the first time it was levied was 1908; there was a commission in 1904 established and they brought in a recommendation in 1906- I think that's right- and actually the first levy of this kind, I believe, was in 1908.

MR. SINGER: Have the provisions for business tax substantially changed since that time? Have there been any amendments?

MR. CARTER: By adding new businesses.

MR. SINGER: But none of the percentages that were fixed in 1908 have been changed since that time?

MR. CARTER: No. For instance the 10% for car parks is a new one.

MR. SINGER: Yes that's a new one; but where you had 150% for a brewery, that started in 1908 and it's never been changed.

MR. CARTER: No change since 1904, wholesale or the others, fifty-seven years. And this same representation made in 1938 received the same type of hearings as every one of them had had; nobody disagreeing with the inequity in any way, shape or form, but everybody being apprehensive on how you replace the revenue to the municipality if you take this form of taxation from them.

MR. BAINARD: Of course we felt when the ruling came into effect in our line of business, I'm talking about now, -perhaps I should say we of the grocery business- we felt that when that came into effect, that the ruling in Peel County and which was later adopted by other municipalities; that the municipalities were certainly given a lot of extra revenue by the fact that two large chain supermarkets were then rated as ...on the same basis as department stores, and their assessment was increased from, depending on the size of the municipality, from 25%, 30% or 35% to 50%. The

municipalities sure take that revenue, but do they give the wholesaler any relief? Not at all. But the government, it seems, at that time could have done something; at least, we felt so, and....

MR. CARTER: So did the plumbers; so did the distillers; so did the lawyers and so did everybody else. You think your numerous representations over the years...well so did the other groups and as I say, nobody argues the lack of equity to my knowledge since 1938 anyway.

MR. BECKETT: Any other questions to Mr. Carter from the Committee? Well Mr. Bainard and Mr. Adams, are there any other matters you'd like to mention to the Committee? Any Member of the Committee want to ask any questions?

MR. BAINARD: You will no doubt get from British Columbia your rental values?

MR. BECKETT: Yes, we'll obtain all that.

MR. ADAMS: Mr Chairman, I think that when you take a look at the study of the Canadian Tax Foundation, it will provide a lot of food for thought as to other alternative basis.

MR CARTER: About the changes in this? Changes in British Columbia, since 1952.

MR. ADAMS: No, I'm not necessarily suggesting British Columbia as the proper basis.

MR. BECKETT: Well Mr. Crowder, have you anything?

MR. CROWDER: Just one comment I would like to make to the Committee, Mr. Chairman. If you have looked at the reports coming from Dun & Bradstreet's and other publications concerned with profits and business health, you'll find that during the last five years particularly, it's been becoming more and more difficult for the wholesaler to make a dollar. So if his position was inequitable as far back as 1917 and 1918, he was hurt to some extent then. But you take a sum of money like the Empire Brass are paying in taxes, and you dig that out of net profits of anybody, the wholesale electrical people, the wholesale hardware or wholesale anybody else, if it was inequitable in 1918, it's about ten times as inequitable today. And maybe you should - the Members here- maybe

you should do something about this-not just say it's unfair. Do something about it. Thank you.

MR.BECKETT: Well Mr. Bainard and Mr. Adams and the other gentlemen here, on behalf of the Committee, I want to thank you very much for attending and for the Brief, and I can assure you that the Committee will go into that matter and give it their consideration.

MR.ADAMS: Thank you very much for a very courteous reception.

MR. BAINARD: Speaking for myself and as Chairman of that Committee, Mr. Chairman, I'd like to say as I have said on other occasions when we have expressed our pleasure at the fact that when committee of this type are formed, they do ask us for our opinions and ask us to state our case, and that's very fine and we greatly appreciate it; because I know committees could be set up and function without regard to us, and sometimes they do, and we appreciate the different attitude we have experienced now. Thank you, Mr Chairman.

MR. BECKETT: Thank you again.

LEGISLATIVE ASSEMBLY OF ONTARIO
 MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

WEDNESDAY,
 May 9th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS EATON

Asst. Secretary

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

Mr Mel. Swart
 Mr Garnet Newkirk
 Mrs Marie Curtis
 Mr Norman Goodhead
 Mr J. Palmer Kent

PRESENTATION:

BRIEF - THE ASSOCIATION OF ONTARIO MAYORS AND CLEVES

APPEARANCE:

Mr F. A. Burgess - Bell Telephone Company

THE ASSOCIATION OF ONTARIO MAYORS AND REEVES

HOLLIS E. BECKETT, CHAIRMAN

MR. BECKETT: Well Gentlemen, we are honoured to have representation from the Mayors and Reeves here to assist us in our work; this problem that we have undertaken to, not exactly revise but maybe revamp some sections of the various Acts and to come up with some recommendations, and we need your assistance the same as we need everybody's assistance. And Mr...should I call you Reeve Swart, would you like to introduce the members of your delegation to the Committee.

REEVE SWART: I'd be very pleased to, Mr. Chairman. On my immediate right is the Past President of the Mayors and Reeves Association, Mr Garnet Newkirk, Mayor of Chatham, Mr Palmer Kent, the Solicitor for our Association; Mr Norman Goodhead, Reeve of North York and Mrs. Marie Curtis, who in addition to being the Reeve of Long Branch, is Secretary-Treasurer of the Association.

CHAIRMAN BECKETT: Thank you very much. I think each of you have a list of the Members of the Committee and they are sitting as in that list, so if you wish to ask them any questions, or if they ask you any questions, you will know who it is. Now I want to introduce Mrs. Rowan, our Secretary, and Mrs Eaton, her Assistant, and Mrs Binkley, who will take down everything you will say, and then the boys of the press, they're very important.

(press introduce each other off mike)

MR BECKETT: Another thing I might say, it's nice to have you here when it's the opening day of the ball game-whoever picked the weather they certainly did a good job. Well with those remarks, I think we'll commence with your very valuable Brief. The Members and the press boys have a copy; if you're going to be the speaker, Mr Swart, you might come up here.

MR SWART: Mr. Chairman, we have a solicitor and..

MR. BECKETT: You have a valuable member of the legal profession with you and we would be happy to have him up here.

MR SWART: I have a signed copy of the Brief here.

MR BECKETT: Fine, thank you.

MR SWART: Mr Chairman, there are perhaps two or

three general statements that I should make first, the first one is an apology for being late-it was my understanding the appointment was for 2.30, so I apologize for keeping you waiting. Secondly I would like to say that the Brief which we present here now, perhaps is not as comprehensive as you would expect to receive from an Association such as the Ontario Mayors and Reeves. But it was the feeling of our group that we, as an Executive and as a committee, should not deal with matters that have not been passed at the various Conventions; and therefore the matters that we present to you have not been done by a search through the Municipal Act, but only matters which have been passed at the last Convention or previous Conventions.

MR BECKETT: Perhaps you'll have another one.

MR SWART: Perhaps we will; we meet again in the latter part of June. Also, as you probably gather from reading the Brief, it was prepared last fall largely, and you have passed legislation since that time in the House which have met some of the matters in the Brief, so that perhaps all of it is not pertinent today. Perhaps Mr Chairman, we shall not read the introduction-it just deals with the formation of the Association, who it represents, and the manner in which we deal with these problems which are before us.

MR THOMAS: Well, Mr Chairman, in respect to the introduction, I was very much interested in the representation of the Association, roughly around about 20% of all the municipalities in the Province of Ontario; is the fee very high to become a member of the Association?

MR. SWART: Well, Mr Chairman and Mr Thomas, the fee is not high; actually our Association represents Reeves and Mayors who represent 75% of the population of Ontario. By and

large, it's the smaller municipalities-municipalities with a population of 2,000 and under who are not represented. But we represent approximately three-quarters of the population of Ontario.

MR BECKETT: You may proceed, Mr Chairman.

MR SWART: The first matter we deal with is relative to the conflict of interests under the Municipal Act, and the paragraph reads: (reads Brief, page 2, para 2) "This Association noted with interest.....of this section." (end of p. 2)

There has, of course, been an amendment made to this section; we still feel however this is not quite broad enough; that it would still be possible for lawyers to represent, we'll say a sub-divider, and still sit on Council and vote on questions affecting his client where he has, perhaps, an indirect interest. We feel it should be broadened to cover those people. There is, of course, at the present time, legislation passed recently that a member of Council can be disbarred from sitting on Council for voting on such matters; we feel that goes a long way towards meeting the necessary penalty, but perhaps even addition to that, there should be some further penalty where there is real proof of a real conflict of interests and resolving that interest in favour of the individual rather than the municipality.

MR SINGLER: On that point, perhaps while some of the legislation-present legislation deals with conflicts which arise out of contracts; in other words if there was a contract by an individual who is a member of Council, there are certain penalties for that. But the whole field of other interests, which don't involve contracts is scarcely dealt with; is that what you have in mind?

MR SWART: We feel it should be broad enough to deal with all conflicts. Now we know that this is difficult. A person may own a few shares in some corporation representing some client, and the interest may be largely removed; but we believe that it should be more comprehensive than it is at the present time. I think it might be fair to say it was brought about to some extent

by one municipality where there were lawyers, I believe, sitting on Council who represented the subdividers, and this change in legislation apparently still does not apply to prevent them from taking that same sort of action. We feel it should be made a bit broader.

MR SINGER: Another point, as I read the new legislation, it would mean that if a member of Council was a shareholder in a limited company, even if he declares his interest and refrains from voting, he can be unseated. Now have you given any thought to this particular thing.

MR SWART: I would think I would have to say that we have not here dealt with every specific aspect of this; we just feel it should be broad enough to prevent conflict of interests. As I said before, we realize that this is a difficult thing to deal with but nevertheless there should be legislation on this.

MR SINGER: Well if you try to put that particular thing into broad general terms, are you anxious to have persons who, even if they declare that they have a conflict of interests and refrain from voting, are you anxious to have them disqualified? Now I think the legislation does that. In other words, a matter comes up and a member of Council says:- I have a conflict of interests, I declare my conflict and I refrain from voting. As I read the statutes presently, this person is disqualified and can be unseated by the ratepayers. Do you think that's reasonable?

MR SWART: No.

MR BECKETT: That's not my understanding of this.

MR SINGER: This is in fact correct.

MR BECKETT: Do you feel that, Mr Palmer Kent? Is that your interpretation of the amendment?

MR. KENT: Well they cant get the benefit of the exemptions.

MR BECKETT: They cant get the benefit, that's all.

MR SINGER: They cant get the benefit, that's right

and they can be unseated even if they've declared.

MR BECKETT: No. If you're a shareholder in a corporation, for example, you could declare your interests, that's all right.

MR KENT: : No, no. There is a definite exemption from disqualifying them.

MR SINGER: But if you're an officer or director, or through your wife and yourself, you have what's called a source of influence, that's fine; even if you declare yourself.

MR KENT: No, but there is Subsection 3, Section 35, which says that Section 1 does not apply to a person by reason only of his being a shareholder in an incorporated company, having dealings or a contract with the corporation. Now you'd still get the benefit...

MR SINGLR: That's only if you're a shareholder-if you have five shares of Bell Telephone; but if you have a controlling interest, either yourself and your wife, whatever a controlling interest means- or if you are a director or an officer, and declare yourself...

MR KENT: Well I didnt think that you would be disqualified in that case, if you declared yourself.

MR BECKETT: It's not my interpretation.

MR SINGER: No you're disqualified even if you declare yourself.

MR MORROW: What would be the purpose in that?

MR SINGER: That's what I asked the Minister and he couldnt tell me; but that's the way they did it.

MR SWART: Well it was not our understanding on the advice of our solicitor that this was the case, and I would think that if it was, there's some injustice.

MR SINGER: The same as if you have a contract- this is just an addition-if you have a contract, you're out, whether you declare yourself.

MR SWART: By a motion being brought?

MR SINGER: Yes, through the proper procedure.

If you have a contract, you can declare yourself any way you want, but you're still out if somebody brings a motion. And you can get into very serious difficulty in these small municipalities where you're the only person in the area who can supply a certain type of service, say gravel or something. You couldn't be a member of Council. And if that Council wants to go and buy gravel, and one of their members is the only man in the vicinity, they're prohibited from buying gravel from that man-even if everybody knows about it and he declares his interest, they're prohibited.

MR THOMAS: Mr Chairman, while the amendment is applicable to proceedings in open council, would it not be possible for an alderman or a councillor to take part in the discussion on a motion where he had a conflict of interests in Council-in-Committee, and then when it goes into Council for approval, refrain from voting. It only applies to Council, not to Council-in-Committee, therefore it doesn't go all the way.

MR BECKETT: That's right.

MR COWLING: What's wrong with that, Tommy, what's wrong with discussing it in open meeting?

MR THOMAS: Well if he is an interested party, he should refrain from discussing it there.

MR BECKETT: The Committee have only limited powers.

MR THOMAS: Yes I know, but they've approved of a certain recommendation; he's there and he's taken part in the discussion. It goes into open Council-it's recommended by the Committee but he has already taken part in the discussion, and now he refrains from voting...in open Council.

MR BECKETT: Yes, but the actions of the municipality is only by Council.

MR COWLING: We're not concerned with the Committee.

MR THOMAS: No, but he could do a lot of damage

there, couldnt he, in the Committee.

MR BECKETT: No, but a Corporation can only act by resolution or bylaws of the Council.

MR COWLING: We dont control the Committee.

MR BECKETT: We have no authority...

MR THOMAS: Well Mr Chairman, I would even go farther in that respect, and I think while he should refrain from voting, if he's interested on a motion before Council, I think he should remove his carcass from the Council, because his very presence sometimes would have an influence on the members of Council.

MR COWLING: Well of course, Mr Chairman, this is something that's going to receive further consideration by this Committee anyway.

MR BECKETT: Yes, that remark by Mr Thomas-he's thinking about himself. It's only where we get personalities like you that would affect the other members.

MR SINGER: Oh no, most of the members of our Councils are pretty influential people in their own Council-nobody likes to say something nasty about somebody who's sitting beside there beside him. (chit chat and jokes)

MR BECKETT: I think we'd better discuss each section-it's easier and we'll finish the discussion. Is there any member of the delegation who would like to say something on this point?

MR GOODHEAD: Well I think, Mr Chairman, in respect to that Section of the Municipal Act, I think that you've gone from one extreme to the other; and I think you've gone in the right direction. Of course the matter that Mr Singer raised, of course, gives us all some concern with the interpretation, but your interpretation today clarifies it to some extent if that's the government's views in respect to the legislation and it is quite satisfactory. If there is any indication of what Mr Singer indicated as such, I think you're precluding a great number of people from sitting in office and I dont think that was the intention; but our

interpretation is that they can properly declare their interest and not be subject to being removed if they do that.

MR SINGER: No, there's a difference. You can avoid the penalty if you are a minority shareholder, but if you're a majority shareholder-you have control; you're an officer or director, it doesn't matter what you do.

MR GOODHEAD: Well I think this is the point, Mr Chairman that should be clarified. Your view is different from that of Mr Singer. But if it is the government's view that the interpretation of this legislation is as you have stated, then we're satisfied with this.

MR THOMAS: Well Mr Chairman, according to this, if you have 50% or 51% interest, you'd be debarred from voting; if you've got a 49%, you're all right.

MR SINGER: Well not only are you debarred from voting, you lose your seat.

MR MORROW: I think the Chairman, Mr Goodhead, was giving his own personal view, not the government view.

MR GOODHEAD: That may well be, but the government I think, must have a view on the matter, because we have to interpret it and our interpretation at the present time does not provide what Mr Singer indicated. That is our view.

MR SINGER: For your general information, Mr Goodhead, I argued this very substantially when the Amendment was introduced, and neither the Minister nor any of his legal advisors in Committee chose to differ with me; and they understood it and defended it on this basis. One of the remarks from one of the government officials was:- Well anybody who has any contract with a municipality shouldn't sit, (period).

MR BECKETT: Everybody knows that the interpretation -the final interpretation- of any Section is up to the courts.

MR EVANS: Mr Chairman, I was wondering what the Association had in mind in regards to penalties.

MR BECKETT: That's the last sentence on page 2.

MR SWART: Actually the Association had a fine in mind, I would say a fine for serious cases, \$100; I wouldnt say it should be a maximum of \$100-there might be a very serious conflict. I should say here too, that we're not attempting to penalize our own elected representatives. We want to, the same as you people do, to make sure that there is no conflict of interests or nobody uses their position on Council to help themselves financially and if they do, they be penalized-properly penalized.

MR MORROW: I think every Member of the Committee is of the opinion they dont want to disbar a great many well respected people who will serve on Councils, if they feel they are being left open to a very narrow few in this respect. We might not find it easy...it might be difficult to get some people to serve if you go too far.

MR SWART: We would agree with you on that; we dont want to exclude them. We want to make it as tight as possible so there can be no personal benefit owing to awarding of contracts or anything of that nature.

MR SINGER: Let me pursue this other point one little bit. The Amendment is Section 3 and it's on page 2 and clause 2 of Section 3 of the Municipal Act, Amended Act; and it's Repeals, Clause A, subsection 3. of Section 35, and Section 35 is that:- people are disqualified by reason of a number of things, and now the disqualification reads this way, "by reason of his being a shareholder in an incorporated company having dealings or contracts with a municipal corporation unless such person is a director, manager, secretary, treasurer, secretary-treasurer or agent or has a controlling interest in the company for the purpose of determining the controlling interest under this clause, and married persons who are living together, the interest of one spouse, if known to the other, is deemed also to be the interest of the other spouse." Now I dont know how anyone can interpret it other than in the way that

I've said. If you read 35-what is left- and replace Clause A of subsection 3-"if the person is a director, manager"etc, then's he's out. Even if he's declared his interest. Do you agree with that, Mr Kent?

MR KENT: Yes that is the Amendment made this year?

MR SINGER: Yes. That's the point I was making.

MR KLNT:.. You go on in the following clause, Mr Singer, which says that clause doesnot apply with respect to a contract with a municipal corporation and a corporation of which a member of Council is a shareholder, director, manager, secretary, tresasure, secretary-treasurer-if it was entered before...

MR SINGER: Yes before, yes that's right. and henceforth..henceforth-this is the disqualification...

MR KENT:They cant deal with a company .

MR SINGER: That's right and even the declaration of interest doesnt affect the disqualification.

MR KENT: That's right. If you have a controlling interest in that company, you cant...the Council cant use them, without unseating that member.

MR NEWKIRK: May I ask this question, Mr Chairman, giving an instance in our own municipality. We have had for a number of years,a most able and public spirited member of Council, who is president of a transportation company doing business throughout the whole province. Now in the event that that individual were presently on the Council, and his transportation company were to deliver a parcel at City Hall, and he is president of the transportation company, would that disqualify him from holding office? If so I would say that is a bad thing.

MR KENT: Did you say he had a controlling interest (president) well he has a controlling interest, you see. Heis an executive officer or had a controlling interest, that's right.

MR NEWKIRK: That could deprive the municipality of the service of an individual that the municipality is hiring.

MR SINGER: When you look at it though, 574 towns and only 90 of them belong to your Association, so you've got 484 that have got people who are in the municipality, probably have gravel pits; these are the logical people to look after the municipality, either the Reeve or the Councillors; it's a difficult thing.

MR SWART: Mr Chairman, perhaps to sum this up by saying that if the interpretation of the Act is as Mr Singer says it is, it appears to me as a layman that we do not feel that people should be disbarred from sitting on Council or where the situation exists....

MR SINGER: My theory is that in an instance like Mr. Newkirk mentioned, that all that should be required is an honest declaration of interest on the part of the individual and his refraining from taking any part in the discussion of the payment of the cartage bill.

MR SWART: In other words, when the discussion of the accounts went through, the \$2.13, he would say...

MR SINGER: That's my company and note it in the minutes and have nothing more to say about it.

MR SWART: And a penalty perhaps if he doesn't do it.

MR SINGER: If he doesn't do it—that's right, or perhaps a disqualification if it's serious enough.

MR SWART: I suggest but I think it is the feeling of our Association, that in all instances that just a disqualification may not be enough.

MR SINGER: Or it may be too much if it is an honest mistake.

MR GOODHEAD: Oh it's easy to make an honest mistake because something may go through Council when you're not there, and if you don't declare it at the next meeting, then you're subject to censure.

MR GOODHEAD: I think it's fair to say we're very

pleased with the steps you're taking; we recognize the problems and we know the difficulties.

MR BECKETT: Would you like to carry on then, Mr Swart, with the next section.

MR SWART: Yes. Clause 2 has been partly covered by your legislation this year. As a matter of fact, subsection 4 was amended to conform with our request which had come in earlier in a resolution. However I understand that subsection 3, which applies to the licensing of any municipality was not amended in a similar fashion, therefore we have a problem which can exist within the municipality and in effect, we are requesting here that subsection 3 also be amended similar to subsection 4.

MR BECKETT: Would anybody else in your Committee like to comment on that?

MR SINGER: I just wondered as I read that, Mr Swart, what...whether you wanted the discretion left with the individual Council or whether you just had a particular complaint in this instance.

MR SWART: No, I think we want some discretion left to the Councils; this subsection 3 now provides for licensing, regulating and governing photographers and other persons...

MR SINGER: No, I can see the point that you're making in your second paragraph but the broad wording of your first paragraph gave me a little cause for concern. (reads) "In giving authority to councils to pass by-laws, their powers are limited by the exact wording of the statute." You give the power to a municipality just to enact a by-law in principle; that you can have, oh 1000 municipalities with 1000 different versions of what's going to happen. I can see the complaint that you make in the second paragraph-I think that's a valid one but I wonder if you really meant the various powers given to municipalities should be subject to a thousand different interpretations.

MR SWART: No, I would say we don't; we feel that

many of the by-laws that are passed do not allow enough discretion or probably broad discretionary power which is not defined. We were thinking particularly of this, and I think perhaps with regard to early closing-of course you've amended that now in your legislation. But this is the sort of thing.

MR BECKETT: In other words what you wanted was that a municipality which passes a by-law wouldnt have to stick strictly to the words of the Section.

MR SINGER: This is what gives me concern.

MR BECKETT: The courts have held in a good many cases that you must stick strictly or strictly follow the words of the Section, and you cannot vary or just take part of it; you must take all- is that what you mean that?

MR SWART: We meant that the statutes should be a little bit broader; we are not suggesting that our by-laws.... our own by-laws should allow us to vary from them but the statutes we suggest, should be a little bit broader.

MR SINGER: Surely you wouldnt want us to license gasoline stations in a different way than North York; if there were not licensed gasoline stations in both municipalities to license them in the same way.

MR BECKETT: But that would only come under your clauses of regulating, not licensing.

MR SINGER: Well yes, that was merely an example I picked up out of the air- the first sentence I, perhaps, misinterpreted. It's clear now to me.

MR KENT: It's just a general thing, and I think as you say, Mr Chairman, that you have to stick pretty strictly to the statutes to have a good municipal by-law; and in drafting the legislation, if they could keep in mind there are often certain things that should be exempt under this Section, and it gives the municipality some authority to provide exemptions in that way, and then it would save a lot of difficulty.

MR BECKETT: Well do you mean by this...under the Lord's Day Act, as we amended a year ago, that a by-law may be passed in regard to Sunday movies, and it reads, subsection 2 reads:- "where a by-law under this Section is in force, and subject to its provision, it is lawful in the municipality in such parts or part thereof, as is specified in the by-law, that any person after 1.30 o'clock in the afternoon to 9.30, during such period or periods of time after 1.30" Is that one instance?

MR KENT: Yes. They give fairly good discretion in that case.

MR BECKETT: But then it goes on:- "in the afternoon of the Lord's Day as are specified in the by-law, to provide or engage in or be present at any exhibition of moving pictures, or any theatrical performance, any concert, or any lecture, or such of them as specified in the by-law." In other words, under that Section, you might have your by-law that you cut out drive-in theatres, is that what you mean?

MR KENT: Yes. A fair amount of discretion is given in that case...to give the municipalities some discretion.

MR SINGER: But to follow that up a bit using this example that you give; you say you're satisfied with what the legislature did in amending paragraph 4, Section 400. Now that says that nobody can pass a by-law to apply to photographers who take photographs for newspapers. Now you wouldn't want some municipalities to be able to include photographers for newspapers, and others not; am I correct in that?

MR BECKETT: I wouldn't think that's right.

MR KENT: You mean the legislation sort of exempted them...

MR SINGER: That's right in the first instance, and not given to the discretion of an individual municipality to determine; in other words like North York and Long Branch. Of course it doesn't apply because of Metro licensing; but if they had

their licensing, it wouldn't make sense that a photographer- a news photographer in Long Branch- should be licensed and the one in North York shouldn't be licensed.

MR KENT: This particular one is a good example because the one you have amended is the one that applies to photographers who do not reside in the municipality. While that wouldn't affect Toronto so much, but a good many of them do; but it would affect Long Branch and North York and all the other places...

MR SINGER: Or you get a big story breaking in Barrie, and the three Toronto Dailies send up photographers to take pictures; there's going to be an awful to-do if before they can start taking pictures, they have to run to the City Hall and get a license. (chit chat and exchange of pleasantries)

MR BECKETT: All right, shall we carry on?

MR SWART: Clause 3, (reads page 3, para 3)

"It is also recommended.....to the particular matter." I think this is something new, and we're not asking here really what some municipalities would like, that the Province take over the cost of these; but we are saying that there should be some schedule of fees so the municipalities will know what they're getting involved in. At the present time it's wide open.

MR BECKETT: Well, would you, through your Solicitor suggest what type of an amendment would cover such a thing as that?

MR KENT: You've got some enquiries recently where the costs are very high, and the municipality has no way of knowing what the cost might be before they started out on it. There are both kinds of enquiries; there's the kind where the Municipal Council can ask for an enquiry, and generally that's before a County Judge and the expenses are not too great. But the other, where the Province decides to have an investigation- the Lieutenant-Governor-in-Council can order an investigation into the financial affairs of any municipality or local board; it just says the expenses shall be fixed and certified by the Minister and forthwith be paid by the muni-

cipality. And that's all there is to it, but it can be very serious to a municipality.

MR BECKETT: Mr Kent, are you suggesting that all enquiries should be before a County Judge-would that eliminate the serious consequences?

MR KENT: If it were before a County Judge, it would certainly help in the matter of expense.

MR MORROW: Mr Chairman, there's been a movement afoot this past year or two to relieve County Judges of a lot of this particular type of work, is there not?

MR SINGER: You'd never get that admission from the responsible Cabinet.

MR COWLING: Well we feel, Mr Chairman, that the progressive legislation that has been brought in to deal with the municipalities in the last few years, that we wont have any more of these large..at least the municipalities wont.

MR SINGER: Do you think it's reasonable Mr Swart, that the cost of this type of an investigation should be a local cost?

MR SWART: In some instances it is reasonable; if there is negligence on the part of the elected officials, I would suggest there is some reason why some should be assessed against the local municipality. There is some responsibility locally. However, on the other hand, it may be some incident where there are extensive costs which perhaps should not be borne locally; but we here are not asking...

MR SINGER: You are only asking for a tariff, a fee; is that right?

MR SWART: Yes, that's right.

MR THOMAS: Well wouldnt some of that guilt rub off on the Province, because of lack of supervision in the expenditures of money that had been granted to the municipality; would they take some part of the guilt too?

MR SWART: I would say it's possible, but there's

some responsibility certainly resting with the municipality- the Municipal Council.

MR SINGER: Of course you get into a very broad field. And investigation is an investigation and it may cost just as much to investigate the smallest municipality in Ontario as it would cost, say, in the City of Toronto. Now suppose you come up with the same type of investigation in a very tiny municipality as you would in Toronto and they're both \$50,000; in a tiny township with a small assessment, that's going to be a real burden on the tax payer. In the City of Toronto, it isn't going to affect the tax rate, except maybe a thousand of a mill perhaps.

MR COWLING: Well I think we should look at this...

MR BECKETT: I know but should the other 974 municipalities share the cost of an investigation of another municipality? And when you ask somebody else to pay it then it has to come out of everybody else's pocket.

MR SINGER: Yes, but the problems for having a Department of Municipal Affairs and passing these statutes, certainly in my mind assumes a broad, general responsibility for the proper conduct of municipal affairs.

MR THOMAS: Well Mr Chairman, when we hear so much about the tremendous amount of money the Provincial Government is giving the municipalities, don't you think the Province has some responsibility to see the money is spent rightly?

MR BECKETT: Well then would you say federally too that the Federal Government too is interested- their contribution is indirectly to the Province?

MR THOMAS: I certainly think the Province should should have some consideration over the expenditures in the local...

MR SINGER: There's one instance comes to my mind in a municipality that had some trouble a few years ago. The Department noted from the auditor's report that finances weren't being properly handled; and sent a letter to the Council and the Council

either didnt look at the letter or read it too carefully; and things went from bad to worse, and two or three years later the whole thing blew up in their faces; and it was later ascertained that the Department, other than having discovered and sending the letter, did nothing more; but that the wrong thing continued and the municipality was stuck, not only with the cost of the investigation- the local tax payers were stuck with a very substantial increase in their taxes too.

MR EVANS: The town of Belleville?

MR SINGER: Well I didnt want to mention any names; but that's the one.

MR THOMAS: In fact at that time when it was raised in the Legislature, the Minister said:- What more could we do when we send the letter.

MR EVANS: Yes but if you take all responsibility away from the municipality, what have you got left? I think they have some responsibility in running their own affairs.

MR BECKETT: Have you ever stopped to consider that out of that could be a lawsuit and judgment against the municipality; do you want to ask somebody else to help pay that judgment?

MR EVANS: I think there is less chance of something happening in a municipality if they have to pay part of the cost for these investigations to be sure there isnt anything wrong in the local situation.

MR SINGER: There is another aspect to this too; an individual tax payer becomes convinced that there's something wrong in a particular municipality, and this has happened in Ontario, and he tries to get some sort of an enquiry under way. Very shortly he's going to find- there are two things that are going to have to happen, one is, he's going to be subjected to great resistance from his Council, and the other is that he is going to be personally subjected to very substantial expense. Now I was talking to a group from an Ontario municipality just yesterday, and they've just been through this

experience, and they had put their hands in their pockets very substantially. Their point was correct; there was an investigation; there were certain things found to be seriously wrong in the affairs of that municipality, and they made the complaint, and I think it's a reasonably legitimate complaint, that having brought this about, there should be some method of re-imbursing them for the expenses they undertook to bring this about. Should that be an individual ratepayer's responsibility?

MR BECKETT: I think it is the duty of any ratepayer to...to...

MR SINGER: If you hang a dollar sign on this sort of thing, you're going to find ratepayers being very reluctant.

MR BECKETT: Just a moment..a member that's elected to any body, any form of government, he makes a sacrifice, and I think it's only right that a ratepayer should make a sacrifice for the good of his municipality. What's wrong with that system?

MR SINGER: It's a wonderful system if it works, but I suggest that you're frightening people away from embarking on this...

MR EVANS: It's worked for over 100 years

MR BECKETT: Not only that, but what percentage has there been any trouble in 975 municipalities in Ontario? A very very small percentage, and I think that congratulations are due to anybody who has served on any Council or any Board in this Province.

MR THOMAS: You know what the Minister said- the Deputy Minister said at a meeting down in some part of Ontario; he said:- Oh well that's only 4 or 5; but there are a lot more that have never been uncovered. That's what he said.

MR BECKETT: Well that might apply to allof us as far as committing minor infractions of by-laws.

MR MCNEIL: Mr Chairman it's like the laws of speeding. That's done everyday.

MR SWART: I think, Mr Chairman that the opinion of the Mayors and Reeves is this, that we have no objection, in fact I

think we would support legislation that would properly penalize any elected people or any officials who did any wrong acts in their municipalities; I don't believe, however, the municipalities would like to see set up an investigation group under the Department of Municipal Affairs that would go into the municipalities and constantly check on every move that the municipalities made. I don't think we would agree with this, and I may say from a practical point of view that this might cost a lot more than any money that is lost now.

MR MORROW: That's a Gestapo state

MR SWART: On the other hand, I think there is the responsibility from the Province that if there are in the audited statements that come in, which indicate any wrong doing in the municipality, then it should be immediately investigated.

MR COWLING: That's done now.

MR SINGER: No, it isn't done.

MR SWART: As Mr Singer has said, the ratepayers are always reluctant because of the cost involved...

MR SINGER: And of involving themselves in public controversy.

MR SWART: I think that constantly going into the municipality to check this and check that-we wouldn't like that and I'm sure that the other members of the Mayors and Reeves Association will bear me out in that.

MR COWLING: I wouldn't like anybody to get the impression from your comments, Mr President, that where it's indicated to the present Department of Municipal Affairs that there might be some trouble in the municipality to bear investigation, that they don't take a good hard look at it, because believe me, they do. But they only go to the places in most instances where they're asked to go. They're not butting into everybody's business as you've just said before. Believe me, if the situation bears looking into, it is looked into; and in no uncertain terms, and now.

MR BECKETT: You wouldn't suggest, Mr President that

every year the Department of Municipal Affairs or some Department should spot check the municipalities throughout the Province-make it regular check?

MR SWART: What I'm suggesting is that we would not relish the idea of the Department of Municipal Affairs' representatives going through all our minute books, checking every move we make....

MR MORROW: That's enforcement's job.

MR EVANS: Every municipality's books are audited; if there is anything wrong, it can always be picked up there.

MR BECKETT: And all the auditors of all the municipalities must be licensed by the Department.

MR SWART: I think that last year's President made this pretty clear.

MR BECKETT: Clause 4 then, Gentlemen.

MR SWART: Mr Chairman and Gentlemen, this is a matter that is becoming of increasing concern to municipal people-the damage being caused by children to public fixtures and public institutions, public buildings; and we feel that some responsibility should be placed on the parents. Now again, I think we realize the difficulty of this in many respects. Nevertheless we think the principle has some merit to it.

MR BECKETT: Mr Kent, yesterday this matter came up in another place...havent there been some court cases where damage done to school property that the parents were sued for...am I wrong in that?

MR KENT: No, I dont know of any case where they recovered anything.

MR BECKETT: There wasnt a Hamilton case?

MR KENT: I dont know of any.

MR MORROW: Parents are not liable for the actions of their children for any willful damage, are they?

MR BECKETT: No.

MR COWLING: Well I think they should be, and I certainly agree with this.

MR GORDON: Well, Mr Chairman, if that's the law where parents were responsible for what their children did, some children could ruin their parents.

MR COWLING: Well that would be a damn good thing then, George; I'm for it. If we had a few parents ruined by the silly acts of their children, they'd have better children.

MR GORDON: That's just nonsense.

MR COWLING: It's about time that parents began to accept the responsibility for their own children. Down at our park, lavatories and things-it's just tremendous. (cross talk here-all talking together) the parents could tell the kids, and if you tell him that father has to pay, so be careful.

MR BECKETT: And so by statute, you're going to try to correct the morals of the people, are you?

MR NEWKIRK: Do you think, Mr Chairman, it might be a deterrent in that the maximum mentioned there; there is not the thought of ruining parents, but to give them a feeling of responsibility for damage up to that amount. Now it may not be the right amount.

MR THOMAS: If the maximum figure was reduced, do you think that might be a little better?

MR COWLING: Mr Chairman, the individual is responsible to the public around his own home; that's why we buy liability insurance. If the postman trips over a step or a baby carriage and you're responsible, the insurance company pays, and if they don't pay the person can sue the homeowner. Now I think the same thing should apply to their children. I'm quite prepared to be responsible for any silly thing that my boy might do; and I think all parents should feel that way. And if they don't, it's time they should and it's time they do.

MR GORDON: If you had half a dozen boys, how about that?

MR COWLING: The same way; I was one of a half a dozen boys and... it cost plenty...

MR BECKETT: Could you do it by law?

MR COWLING: I dont know about that.

MR GORDON: You've got oneand so....

(chit chat and disagreement- all talking at once)

MR EVANS: Mr Chairman, what about the mothers and fathers who cant pay?

MR COWLING: That's just too bad.

MR GORDON: It is too bad. (more cross talk)
if there was a mother and father who...

MR COWLING: Who is responsible, they bring the children into the world- who is responsible, the parents or the government?

MR GORDON: Listen, when the children are out playing, the father and mother havent got any jurisdiction over them. You could ruin parents by making them responsible.

MR MORROW: The children are ruining our parks...

MR BECKETT: What would you say, Mrs Curtis?

MRS CURTIS: I find that today the parents who are responsible, and their boy or girl breaks a window, and they say to them:- You must pay; they say:- Well Johnnie Jones down the street, he breaks them every week, and nobody is doing anything about him. In one school on the Lakeshore, they break seventeen windows on a weekend. And whether the police get there or not, there's nothing they can do about it. And I think there's some responsibility-it used to be that the parents took them to the woodshed and gave them a darn good shellacking, even if you did have the money; and they took a newspaper route and they paid their way- they paid their mother and father back. But this is encouraging poor citizenship.

MR BECKETT: So you'd like legislation to take the place of a shellacking?

MRS CURTIS: No, but there are irresponsible parents too who dont want to stand up and pay for their children.

MR COWLING: And the type of parent that wont pay is the parent who knows that they dont have to pay.

MR SWART: There certainly ought to be limitations ..the parents, where a child has done an extensive amount of damage and the police go around to see them, the parents couldnt care less. Their attitude is dont bother us about it.

MR MORROW: The best thing to do is get them into the Juvenile Court and the Judge gives them a little lecture about they should be doing as a dutiful parent and that's it.

MR COWLING: I think we should consider this very seriously, Mr Chairman.

MR SINGER: Well there are two or three things about this, Mr Chairman, that bother me. One is the limitations of public property.

MR BECKETT: The limitation I would say is the word "willful".

MR SINGER: There are two limitations, one is "willful" and one is "public property". If you're going to establish a principle like this, surely it should apply to all property. If Johnnie breaks someone's window, there should be the same responsibility. "Willful" is another thing; suppose Johnnie leaves his bicycle on the street and somebody falls over it and breaks their arm.

MR MORROW: That's a private situation.

MR SINGER: Is there a different kind of responsibility for damage to an individual than there should be for damage to property?

MR MORROW: This is property of the municipality.

MR SINGER: Well this is the point; I dont care whether it is municipality property or not. I dont think that in fairness, the Mayors and Reeves Association should ask or suggest that we establish one principle for damage to public property and another one for damage to private property.

MR MORROW: I agree with Mr Singer; if it is going to apply it should apply to both- right across the board.

MR SWART: Except the damage to public property is much more prevalent. That's the reason we have it here. The schools are vacant on the weekend and often you get more damage to schools than to parks.

MR BECKETT: Mr President, if you leave a house vacant overnight, the same thing happens on vacant property. As Mr Singer says, if you're going to carry it that far then this is not the place. It has to be done around some common law right, no matter where it happens.

(more cross talk re parents and children)

MR SINGER: I would say we must tread very carefully with this suggestion.

MR BECKETT: Unless you're going all the way.

MR SINGER: This is something that the common law has dealt with over a long number of years and have never seen fit to fix this type of responsibility.

MR GORDON: It's been discussed many many times.

MR BECKETT: Next, Mr President.

MR SWART: Item #5 (reads page 4, para 2) "This Association.....industrial lands!" We've got regulations that may not be the adequate regulations to prohibit us at the present time, and we feel often that the municipality doesn't get the best out of the property; they sell it through their clerk, the only channel that they have at the present time.

MR THOMAS: But they can get an appraisal on it.

MR BECKETT: The Department of Municipal Affairs now.....(all talking) order Gentlemen -provide that you do supply two written appraisals before the Department will agree to the sale.

MR SWART: Some members of the Association felt very strongly that their municipalities were not realizing the full value of their property they could realize if it were handled through the normal channels of sale.

MR SINGER: Did you discuss the question of establishing a procedure- the necessity of calling public tenders for

the sale of lands- the necessity for advertising, the necessity for getting evaluations?

MR SWART: No, we didnt discuss that because there is legislation at present that now provides for certain procedures.

MR SINGER: Thesethen are only the properties that you need the consent of the Department; those are properties that you pick up in tax sales. But there are all sorts of other properties you dont need any consent at all- and there's no supervision. And in all those without exception, where there has been a fuss grow up in a municipality, somewhere along the line, there was criticism of their land sale; and there was the suggestion whether it was proven or not, that the municipality has sold lands at less than their value to the benefit of certain type of persons.

MR BECKETT: There isnt much property acquired except the industrial sites that they get and land acquired by tax sales.

MR SINGER: There's lots of land-if you will read the report through...

MR BECKETT: How do they get the land?

MR SINGER: Oh they get it in a variety of ways, 5% has to be controlled but they ...there are lots of properties.

MR KENT: On widening, they get considerable.

MR SINGER: I've often considered a lot of the complaints could be minimized, perhaps eliminated completely, if there was a standard procedure in the Municipal Act which said:- When the municipality comes to sell any land, that it must do it by tender and that there should be some sort of an evaluation, and that unless there was good reason, it should go to the highest bidder- advertise it.

Mr Kent: There is some other land that the municipality could get in connection with widening a street; we can get more land that is actually required for the widening, and resell it later. There are many cases where they acquire land and have to resell part of it. This particular question only arose because of

the provisions under the Industrial Sites Act where you cant sell the land without getting approval from the Department; and because the Section provides if there is any outstanding debt, the whole of proceeds of the sale must be applied to the outstanding debt. Therefore they interpret that as meaning there is no money to pay commission for the job. Now the municipalities, I think, have paid commissions on lands they've sold for a good many years. But now where they have to get approval of the Department, the question has arisen. They're not allowed to pay commission.

MR SINGER: There was one matter raised in the Legislature by one of the Members who suggested there had been something wrong with a land sale in a particular municipality-I dont know whether his criticism was valid or not, but his suggestion substantially was that it had been done almost in secret, and if what he alleged was correct, one of the reasons it had happened would have been that it was done almost in secret-that nobody knew- a privileged person was allowed to benefit. This is why I wonder if you thought about establishing some sort of procedures.

MR BECKETT: There again you lose faith in your elected members...your members to your Council who...

MR SINGER: Well that's a fine general theory, but we've got thousands of pages of legislation and we've got an amendment of 20 odd pages this year to the Municipal Act-apparently it indicates we havent any faith either. If it was just a question of faith we wouldnt have all of this legislation.

MR MORROW: Mr Chairman, may I inquire if the Councils have the authority to pay a real estate man for an appraisal or an evaluation. This speaks about realty commissions, which I'm not in favour of because it...I think it might leave itself open to some connivance or abuses in some cases. I do think from what has been said here that they should be given the power to have that land evaluated.

MR BECKETT: They have to, Mr Morrow; they have to

have it done by two before the Department....

MR MORROW: Can they pay an appraiser?

MR BECKETT: Oh yes, yes.

MR MORROW: Well if they can do that, I dont see why they should have to bother with a commission. They're getting the service they really require.

MR EVANS: Do you believe that by putting it into the hands of a real estate agent, that he will get a better price for you? Would it relieve the municipality from a lot of extra work or what is actually your idea?

MR SWART: Our idea is that it is possible that sometimes you can get a better price.

MR BECKETT: What would you say then, Mr President, if you followed the Highway's Department-have all their lands sold by public auction?

MR SWART: This hasnt of course been discussed by the association; my personal opinion is that I would agree with it- sell it by public auction.

MR NEWKIRK: I dont think that experience has proved that a public auction is always the best way of getting the most for land.

MR BECKETT: May-be not; but as far as the public is concerned, it satisfies them that all is correct.

MR NEWKIRK: Mr Chairman, I think one thought on this suggestion was that if a municipality wished to move land and that land is in competition with other owners, the municipality is in an invidious position in that the other owners can employ professional assistance to sell his property, and the municipality cannot.

MR KENT: It's often in the best interests of a municipality to sell land at less than what you might call the market price, provided they get an agreement that the person is going to put up a building soon or right away in order to get the increased assessment.

MR BECKETT: That's often done by the Department as part of the agreement. Can we continue?

MR SWART: Clause 6, the Planning Act. Virtually it asks that we be permitted to charge...you're requested to make a change in our land use by-laws- that we be permitted to charge those making the enquiry. At the present time, you can charge for minor variations...the Committee to adopt them you cannot charge...

MR SINGER: Well now, without letting secrets out of school, I know that there are municipalities who do charge for these things whether they know or not.

MR NEWKIRK: That is correct.

MR SWART: I know this too, and it is one reason that this is in here; it is illegal for them to do so; our solicitor has advised us that we could not charge-we were charging for a while.

MR SINGER: I know definitely there are some who do charge and there's no complaint about it.

MR MORROW: Mr Chairman, this is all right but I think we should legalize present practices.

MR THOMAS: There are some who think that the Planning Boards should be done away with; what is the opinion of the Mayors and Reeves? Is it the feeling that they have too much authority as an appointed body beyond the reach of Council? And the only way that you could cut them down is by cutting the budget, so I learned at the end of the year. The Council has no authority

MR BECKETT: You are speaking of Planning Board?(yes)

MR SWART: This is not my feeling-personal feeling; We have discussed this in the Association and I have heard that their powers are actually very limited.

MR NEWKIRK: I don't think that we, as a Committee, could comment.

MR SINGER: There is another suggestion- not quite for the same reason- that in many municipalities all sorts of time and effort is wasted by processing various applications through

Planning Boards; because in so many cases, the member of Council sitting on the Planning Board influenced the lay member; and in any event if they dont influence him sufficiently by the time it gets back to Council, the Council says:- We're going to do what we think is right, notwithstanding what the Planning Board is doing. You build up a great period of delay and perhaps expense, public hearings and so on; and it has been suggested that for that reason, perhaps Planning Boards might be an extra wheel.

MR BECKETT: Well Mr Thomas, what did you have in mind, a Committee of Council?

MR THOMAS: Well yes- a Planning Committee; or at least I feel there should be a majority of members of Council on the Planning Board. That might help. You take a Planning Director noone has any authority and yet his salary is paid by the Council, but Council has no authority over him.

MR BECKETT: I think there's something in the Act that the Council must approve the budget. (yes) of the Planning Board, but I dont know if there's any procedure as to what happens if they dont approve. And where you have a joint Planning Board in the municipality, then there is , but that doesnt apply to a single one. (chit chat and cross talk)

MR SWART: I think there's some validity in the argument-if you have a Planning Board purely from Council, they are so close to the electorate-and you realize that planning is very controversial- and if you have elected people only serving on the Board, you may get pressures exerted which are not good for the future of the community.

MR SINGER: I would suspect that someone like Mrs. Curtis would have a very grave objection to somebody telling her from the Planning Board that something she doesnt think is right should be done in Long Branch.

MRS CURTIS: I have a very strong opinion, but I dont feel that in our Committee representing the Mayors and Reeves

of Ontario I should bring it up here today. I have a personal opinion about Boards and Commissions, but I have no authority to express anything on it. You've all read my opinions in the papers about the Boards and Commissions but I'm not at liberty to say it today.

MR BECKETT: All right Mr President.

MR SWART: Clause # 7, I felt it has been adequately dealt with by the legislation- Section 43.

MR SINGER: Now there's another problem that arises out of this; I think that what was done was a step forward, and it was completely along the lines of this recommendation; but there is a serious problem about having different early closing by-laws in adjoining municipalities. Any thoughts on how that may be dealt with?

MR NEWKIRK: I would suggest that if there is any hardship now, it will work itself out.

MR SINGER: This may be working itself out in Metro.

(chatting here re liquor stores closing etc)

MR SWART: I don't think there is any way of curing this without taking the authority away from one municipality and either giving it another municipality or the government.

MR SINGER: Or an area.

MR THOMAS: There's a situation in the City of Oshawa-we have early closing down there; and there are three discount houses open just over the boundary of the municipality-they're open until midnight, and there's nothing we can do about it.

MR BECKETT: Perhaps your Council isn't right in having early closing by-laws.

(chit chat and cross talk and jokes)

MR SWART: Clause #8, the Municipal Parks Act.
(reads page 6, para 2) " There is no Act..... under one Act."

MRS ROWAN: That's a good suggestion.

MR MORROW: Mr Chairman, I thought we tried to consolidate a lot of these Acts without adding more Acts.

MR BECKETT: This is bringing all these under one.

MR SWART: The Fire Departments Act. (reads page 6 para 3) "The Association.....fire fighters"

MR SINGER: Are there any arguments on the other side of this one?

MR SWART: I believe there is.

MR SINGER: The Fire Fighters Association arent enthused about this?

MR NEWKIRK: No, they want the Deputy Chief in the bargaining unit.

MR SWART: This puts the Deputy Chief, we feel, in a somewhat difficult position. He's a member of the bargaining unit and on the other hand, he takes the place of the Chief part of the week.

MR BECKETT: All right now-#10.

MR SWART: Number 10 is the Municipal Franchise Extension Act. (reads page 6, para 4) "It is also..... by-laws." It's been extended to them that far- we are taking it the next step.

MR BECKETT: You mean anybody over 21 whether they are tenants or property owners? Is that it?

MR NEWKIRK: Anyone who would qualify.

MR MORROW: Has this the unanimous approval of the members of your Association?

MR SWART: No, it wasnt unanimous; I think it was a fairly good majority. You are aware, of course that throughout Ontario, in most places when this question of extending Municipal Franchise has been submitted to the voters, it has carried overwhelmingly. And if it is good that they should elect the Council, why shouldnt they extend it to school boards and...

MR SINGER: How about a step further-allowing them to vote on money questions and money by-laws? (uproar) hold on I wasnt asking your opinion- I know it-but of the association.

MR SWART: The opinion of the Association is that we are not asking for that to apply to them; we except them.

MR BECKETT: In British Columbia, the voters are classified into property owners and I forget the other word. And only the property owners are members of Council. And in their 1960 Amendment to the Municipal Act, that is what it is-instead of broadening it out, it's restrictive.

MR SWART: I would have to say that we would feel that this is a regressive step.

MR SINGER: Was there any discussion while this was up about the broad franchise- even eliminating the money by-laws?

MR SWART: If my memory serves me, it was not.

MRS CURTIS: No, it wasnt discussed.

MR SINGER: Because there had been an article in one of the local papers just a few weeks ago, suggesting that anyone who has the Federal or Provincial qualifications, and who lives in the community-has a stake in the community- should have a right to express their opinion.

MR BECKETT: What stake?

MR SINGER: If he lives there, he is spending his money or somebody is spending money on his behalf. If he is gainfully employed or...

MR BECKETT: I think you're stretching the word "stake" pretty far. All right Mr President.

(cross talk about the right to vote)

MR SWART: Clause # 11 is the Ontario Municipal Board Act. We feel that the numbers should be increased so that it can more expeditiously deal with the matters submitted by the municipalities.

MR MORROW: They have streamlined it too.

MR SINGER: Have some of the municipalities been experiencing some very considerable delay.

MR SWART: Yes, I'm sorry Mr Goodhead isnt here because I've heard him speak on it on several occasions. It is better -much improved.

MR SINGER: I have had statistics on this over the past few years and there seems to be a substantial improvement.

MR SWART: I think I would go so far as to say that sometimes when there is delay, it is not always on the part of the Ontario Municipal Board. Clause # 12, the Assessment Act. (reads page 7, para 2) "This Association..... to impose taxes and rates." This puts a limitation, as you know, at the present time on the levy; and if a municipality makes out a levy of 80 or 90 mills and if this goes above the 5%, you cannot collect above the 5%; but you must deal with your budget say, where money is allotted to other Boards or if you did collect it, pay it to them.

MR SINGER: I have no idea of the background of that-how long has it been in effect?

MR KENT: It's been in effect for a long time-the purpose was to devise a means by which each municipality would share in the business of the telephone company. They've got an actual tax on the business of the telephone company in each municipality. Otherwise a bigger share would be paid where they have their main building. It's solely on their income that they're taxed but the limitation of 5% worked...it operates in some cases, in some municipalities-maybe the small ones; I don't think Toronto, for example would ever reach anything like 5%. But in some municipalities it does, and in those cases, it's an effect on the rest of the municipality- it's part of the telephone company's taxes.

MR SWART: I believe this has become a problem only in recent years due to the rapid increase of municipal tax rate. Telephone receipts are increasing more rapidly and therefore this limitation is affecting municipalities that it didn't affect before it's certainly not affecting a great many municipalities at the present time, but it could become a real serious problem.

MR NEWKIRK: Reassessment is a factor.

MR BECKETT: We must remember this, that this brings to the government the relationship to the Provincial-Federal

agreements. This is much more involved than it would appear here.

MR SINGER: I must admit, Mr Chairman, that I lost you-how does this relate to Dominion -Provincial agreements?

MR BECKETT: Well, it's pretty involved and if you will listen to Mr Burgess now, he'll tell you- he's from Bell Telephone. You better tell the Committee who you are.

MR BURGESS: My name is Burgess and I represent the Bell Telephone Company, and although I have no authority to represent the Canadian Independent Telephone Company, what I say on behalf of my own company will tie in each of the Ontario members. You must realize that in addition to the Bell Telephone Company operating in Ontario, there are over 200 independent telephone systems in operation. To answer Mr Singer's enquiry, I might say that the telephone industry is the only industry that is taxed municipally on its gross receipts; and that results in double taxation of income. As a result, in order to put some reasonable limitation on the double taxation of income, in the statement of Provincial Tax rental agreements, there was a provision that when a municipality finds itself in a position, it can tax the gross receipts of the telephone company, there is a limit of 5% on the amount of tax they can levy; they can only collect a tax of up to 5% of the gross receipts of the telephone company. Because in taxing the gross receipts, they are imposing double taxation on the income of the telephone company as both the Province and the Federal Government are also taxing that. Now then, it was also mentioned that this only applies in certain municipalities. I might say that the municipality that sponsored this resolution is the City of Windsor; and in the City of Windsor, there is a special situation. Under the Assessment Act, the City of Windsor has been trying to assess the telephone company on 75% of its gross receipts. Until the tax rate in the City of Windsor reached 66 2/3 mills, the 5% limitation ; but the City of Windsor had a very low assessment rate, and a very high tax rate, because their assessment rate was so low their tax rate was unusually high in order

to get the revenue they required. The City of Windsor has reassessed its property, and although they sponsored this resolution last year, and they circularized all the municipalities in Ontario to get their support for this resolution, since then I think they have changed their attitude. I quote from a newspaper article in the Windsor Star on March 20th of this year in which it says:-

"Because reassessment more than doubled average property values, the tax rate this year was drafted at about 36 mills, rather than the 73 mills in 1961. The Councillors are no longer worried about that 5% levy." And it is within the power of any municipality that finds it is suffering by this 5% to correct the situation by increasing their general assessment and bringing their tax rate down so that the 5% cut-off limit doesn't apply. And it is in order to put some reasonable limitation on double taxation of the telephone company's income that that tax limit is in- as a result of the Tax Rental Agreements.

MR BECKETT: Mr Singer, a few minutes ago, you said How did that come about? And I said the Tax arrangement with Ottawa- just briefly, it is that the telephone company are allowed to deduct 5% from their income tax, and that is under the agreement made between Ontario and Ottawa.

MR SINGER: This tax is in lieu of business tax, isn't it?

MR BURGESS: No it's in addition to business tax. We are also assessed for a business tax of 25% of the assessed value of the property and real estate that we occupy. We pay the ordinary real estate tax; we pay a business tax, and in addition we pay an income tax on 75% of our gross receipts.

MR KENT: You don't pay realty tax on your buildings...

MR BURGESS: Oh yes we do.

MR KENT: If this is assessed on your gross receipts, you don't pay it on your lines.

MR BURGESS: We don't pay it on the wires or poles,

but we do pay it on all our buildings, and we pay a business tax of 25% of the assessed value of our buildings.

MR SWART: Is it not true that to some extent at least that this tax was put on because of the poles and wires running to such a large extent along public property; it's not just an ordinary situation of an ordinary taxpayer; but it is a distinct problem which is levied against a municipality because of the poles running along--was not that some of the thinking when this legislation was enacted?

MR BURGESS: I think you're quite correct, and this legislation goes back to 1904; and prior to that, the telephone companies were assessed in addition to buildings, they were assessed for poles and wires on the streets, and there was a great difficulty in assessing them; and it kept varying from year to year, and in lieu of that a gross receipts tax was instituted.

MR SWART: Wouldnt you agree that this is discriminatory and may be more so in the years ahead to certain municipalities? Within the province, we have municipalities with a mill rate of 40--others are up to 80 or 90; those are the municipalities which are the hardest hit; they may now or in the near future then have to subsidize the Bell Telephonetaxes--subsidize in relationship to another municipality.

MR BURGESS: It's not a subsidy of the Bell Telephone--it's merely a re-distribution of the tax receipts. But I would submit that if you had two municipalities, one of which has a tax rate of 50 mills, and the other of 100 mills, then the explanation is the assessment basis is out of line; so that the 100 mill one has a much lower assessment basis on its legal property than the 50 mill municipality, and if the 100 mill municipality is suffering because of this 5% limitation on the telephone company, it can correct that situation by raising its general assessment rate as the City of Windsor did last year, and reducing correspondingly its tax rate and then the 5% cut off doesn't apply. So it lies within the power

of the municipality, to cure the situation it is complaining of, just as Windsor did last year.

MR SWART: This is only partly true- a small part.

Municipalities with a high mill rate- this is not always true that this is due to a low assessment; it has more to do now with the rate of growth and/ or the percentage of industrial assessment. The poor municipality is going to be penalized under this. And may I suggest Mr Chairman that to do a complete re-assessment just so that you can get all of the revenue to which you feel you should be entitled from the Bell Telephone is a pretty costly way and rather a poor way of doing that. If in Ontario we had a manual that was based on today's values, then of course there would be no problem. This limitation wouldnt affect any municipality for years and years to come...

MR BECKETT: What do you suggest, Mr President, to take the place of the 5%?

MR SWART: We say it should be removed.

MR SINGER: It should be unlimited?

MR SWART: Yes it should be unlimited- and based on your mill rate. And as your mill rate goes up, then they would simply have to pay on the same basis of their gross receipts. As your mill rate goes up now, when it reaches 5% of their gross receipts then you cant get any more money- a mill rate may go up 10% or 20% to the rest of the rate payers, but the Bell Telephone pay no more. I think it should go up along with the rest of the rate payers.

MR BECKETT: Then what do you say then when they file their income tax with the Federal Government, the Federal Government says:- No, we will not allow this to be deducted from your income tax? Then the telephone, if they are not allowed by Ottawa to deduct, then they're going to be doubled taxed. At the present time they are allowed to deduct this 5% by arrangement between Ottawa and Ontario. If we're going to remove it altogether, then the whole taxes between the two governments- it throws it out of line.

MR SWART: Has there been any attempt to re-negot-

iate this?

MR BECKETT: It's being done now.

MR SWART: Well perhaps this can be re-negotiated I'm not sure how the 5% applies; I'm not familiar with that part of the legislation- does it apply to each municipality or is it for all of Ontario?

MR BECKETT: It's Federal income tax.

MR SWART: Perhaps I'm not framing my question

properly; is it where it exceeds on the average in Ontario 5%, the total exceeds 5%-it cannot be deducted or on each individual municipality?

MR SINGER: Well Section 13 says this:- "notwith-

standing the other provisions of the Act.....the total amount of taxes and rates levied and imposed in any year in respect of the gross receipts of a telephone company in a municipality shall not exceed the amount equal to 5% of the total gross receipts of the company from its business in the municipality for the year ending December 31st etc. It is the responsibility of the municipality and shall be charged to its general fund and not to any body from which Council is required by law to levy and impose taxes."

MR SWART: That doesn't cover the matter that the

Chairman was raising, the question relative to their income tax. My understanding of it is that the 5% limitation applies in each municipality, and it's because of the 5% arrangement between the Federal and Provincial Governments- the tax rental; it used to be 4% in the tax rental agreement but it was amended to 5%.

MR BURGESS: Yes. An example, if this was raised

to 6% and we had to pay the extra amount of taxes in the City of Windsor, we would not be able to deduct that as an expense from our Federal income tax report; so there would be double taxation on that 1%.

MR SWART: Even though the City of Toronto might

only be 4%, you don't average this throughout the Province?

MR BURGESS: Not as far as this exemption is con-

cerned, no.

MR SWART: I know provincially you dont, but I'm wondering on your Federal income tax.

MR BURGESS: I have to admit that I cant answer that question accurately; it's an accounting matter.

MR SWART: Well Mr Chairman, our Association feels that we want to stand with this request- it's being re-negotiated and you should proceed with that.

MR SINGER: I want to get clear on the view of the Bell Telephone; you say that what is here now is satisfactory or inequitable but you'll go along with it?

MR BURGESS: Well we've been living with it, and we feel that it's equitable as long as the 5% deduction applies on our income tax.

MR SWART: Finally on # 13. (reads page 8, para 1 "This Association..... pay telephone."

MR SINGER: Have you discussed, Mr Swart, the general application of the business tax?

MR SWART: I think it's fair to say, at least not recently.

MR SINGER: We've had, I think, more representation on alleged inequities in business tax than we've had on any other single subject.

MRS. CURTIS; Not for 11 years, Mr Chairman.

MR BECKETT: May we suggest that you do that at your next session? Give us some indication of the feeling?

MR MORROW: We had some feeling that the Committee would like to get some expression as to having their fiscal years gibe with the Provincial fiscal year; that perhaps you wouldnt have to borrow so much money if you had March 31st instead of December 31st. Have you ever kicked that around?

MR SWART: This has been kicked around some but we have no recommendation to make.

MR SINGER: Any thoughts generally about the number of municipalities? Do you think they're too many or too few?

MR SWART: I think our Association is not prepared to answer that. (chit chat) I was just going to suggest here that the...with the agreement of the other members of the executive, that if have matters you would like opinions from the Association, that you put these down to us in writing; the executive can then deal with them, bring them in to the meeting which starts on June 25th, and we can have them discussed as resolutions. The executive does not initiate controversial items.

MR MORROW: How soon would they have to be sent?

MR SWART: As soon as possible. (details etc)

MRS. CURTIS: Mayor Newkirk suggests that if we have these soon, I could mail them out to the membership, that we have been approached by the Committee to look into these different questions- then the membership will be aware of some of the points you would like answered.

MR BECKETT: I think we'll take that under consideration. I want to thank you Mr President and members. You are always a great help in these matters. Perhaps you'll have another Brief and come back and see us-this isnt the end of our Committee meetings.

MR SWART: Mr Chairman and Gentlemen, may I on behalf of the Association thank you too and apologize for the absence of Mr Ozzie Waffle, who is actually the Chairman of this Committee; he was unable to be here due to private commitments. May I also say that some of us had to refrain with some difficulty from making certain statements that we would like to make personally, but we are here representing the Association; and if you feel we were reluctant in answering certain question, it is because we are representing the Association.

MR BECKETT: The next time that you come, come in both capacities, as today, and giving also your personal opinions.

LEGISLATIVE ASSEMBLY OF ONTARIO
 MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 May 10th, 1962.

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS EATON

Assistant Secretary

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

Mr F.L. Taylor
 Mr Lee Johnson
 Mrs Grace Hartman
 Mr J. Anderson
 Mr R. Richards
 Mr T.J. Okeeffe
 Mr Wm Overkott
 Mr R. Stewart
 Mr Wm Marks
 Mr P.J. Huggett
 Mr W. Downie

PRESENTATION:

BRIEF - NATIONAL UNION OF PUBLIC EMPLOYEES

NATIONAL UNION OF PUBLIC EMPLOYEESHOLLIS BECKETT, CHAIRMAN

MR BECKETT: Mr Taylor, the Committee welcomes you and your Delegation here, and we will be glad to have you present your report. Your members have a list of the Members of the Committee according to their seating, so that you will know who is asking questions. Now would you like to introduce your members to the Committee.

MR TAYLOR: I'd be most happy to do so, Sir. On behalf of our Ontario Division, I would like to present our committee to the Hearing today; we have Mr Lee Johnson, our First Vice President and Chairman of the Legislative Committee who will present the Brief and who is our spokesman; Mrs Hartman, our Secretary; Brother Jim Anderson, a member and Brother Richards, a member; and the rest of these Representatives are members of the Metropolitan Organizations in the Toronto area, and at this time, Sir, I would like to turn the Brief over to Brother Johnson for presentation.

MR BECKETT: Mr Johnson, would you like to come up here and Mrs Hartman, would you like to come up here too. Before you commence I would like to introduce to the members, Mrs Rowan, Secretary; Mrs Eaton, Assistant Secretary and Mrs. Binkley who will see that everything that is said is taken down. All right, Mr Johnson, you may proceed.

MR JOHNSON: Mr Chairman and Members of the Board, this is our Brief to the Select Committee of the Ontario Legislature studying the Municipal Act of Ontario and we are presenting it from the Ontario Division of the National Union of Public Employees. (reads Page 1) "We shall endeavour,.....that Section 78 of the Labour Relations Act be repealed." (page 4, end of Item I)

MR SINGER: May I ask you a couple of questions here? I presume you suggested a clause for the Municipal Act by reason of your distinction or separation of our duties in the Labour Relations Act. There's no real need for this- you suggest that

Section 89 be repealed; (yes) the clause really wouldnt have any importance if Section 89 was taken out?

MR. JOHNSON: No, that is quite true; if that was taken out...

MR SINGER: Well that would be the way to do it--a bit of a technical point. That Section is the source of your complaint, and I agree with you completely that it shouldnt be there. There's another recommendation in that Select Committee Report--I didnt notice any particular comment on it in the Brief; perhaps you have some views on it. It was also the unanimous recommendation that an effort be made to work out a system whereby there could be no cessation of supply of necessary services. Have you any views on that point? Hospitals, water works, garbage or sewage--that sort of thing--essential services?

MR BECKETT: Essential services, yes?

MR JOHNSON: I think perhaps that if we heard the Brief in full, Mr Chairman, some of the other things may have a bearing on what the distinguished Committee Member said, and it would then perhaps be...

MR BECKETT: Would you prefer to go through the Brief first?

MR JOHNSON: I think perhaps, Sir, if we did go through it, some of the things may tie in.

MR BECKETT: Mr Singer may ask again (yes) Then proceed, please.

MR JOHNSON: Thank you. (reads, page 4, Item 2) "Item II, no contracting out.....by other citizens." (end)

MR BECKETT: Very well done. Now Mr Singer would you like to ask your question again?

MR SINGER: Yes, I have a series of questions; I dont know whether to start from the front or the back--perhaps we will start at the back...this last point that you make, Item # 10 Municipal Pension Plans. As you remarked at the beginning, there

an Act establishing a Municipal Pension Plan which is portable...

MR THOMAS: And which you voted against.

MR SINGER: Yes I did...I did indeed for a long series of reasons. I wonder if you have had an opportunity to examine this Act; and if you have any comments on it. Much of what you say here, of course, is not applicable now.

MR JOHNSON: Yes, I have read the first reading in Hansard of the Act, and certainly I learned quite a bit from there, and I think contained in that is a number of things that we've been after; and certainly I go along with the meaning of it, and I might say that I believe that the Ontario Division of Municipal Employees feels that this is a step in the right direction. I know that we are very interested in one thing, and that is, will we have any representation on the Board seeing it concerns municipal employees; and it is our feeling, and we have written the Minister that we would like some representation so that we could express our views on this Board. We feel that a pension plan set up without discrimination; perhaps we'll have to present a Brief.

MR SINGER: I don't know whether your union has the facilities or not, but I would be very interested in seeing a thorough-going analysis done by a group such as yours; you are going to be the most seriously affected-whether well affected or badly affected, I don't know- but seeing a serious analysis done, perhaps with the service of an accountant-a chartered accountant of your own. Mr Thomas mentioned that I was against it. I was not against the principle of it, nor did I vote against it in the House, but I criticized it very substantially in Committee for a number of reasons.

MR COWLING: Let's not go into the reasons.

MR SINGER: Oh, now wait a minute, this is...

MR COWLING: Why rehash it all again.

MR BECKETT: I rule it out of order.

MR SINGER: I don't care whether you rule it out

of order or not, Mr Chairman, I'm going to say what I intend to say about this Act, because I think it is important- these people are concerned and...

(short debate Mr Cowling and Mr Singer)

MR SINGER: There are many substantial points

that bear thorough investigation, and I think this Committee should have the benefit of the views of your organization in the general set up. You talk about using these funds in municipal financing; the direction that this goes is that the funds have to be invested in the Province of Ontario and there's a fixed rate of payment back of 5%. Is this good or is this bad? There's several schools of thought. There is a compulsory element about it that does away with the continuance of any existing pension schemes. Of course those who are in can carry on until they're exhausted, but no new people can join them. It establishes pretty well on a province wide basis a limit that removes it from the field of bargaining; is this good or is this bad? There are fifteen or twenty forms- different forms that I think are substantially of importance; but certainly I would like to have the benefit of the opinion of people like yourselves who are most concerned about it.

MR JOHNSON: If I could just say one more thing on

this, I might say that in the first reading of this, that certainly we ...if we accept early retirement or sever ourselves from the corporation, we will receive interest on the monies that we've paid in; I might say that I also read there that our present pension plan may be carried as a side pension plan-eventually a man may have six pension cheques coming to him, and we were thinking of getting somebody to corelate these and present him with one pension cheque; and certainly this I'm very vague on...

MR COWLING: So is everybody else; the Commission

hasnt even been set up.

MR THOMAS: Well Mr Chairman, I think you would

agree it can be improved in the time ahead; at the present time, I

think it's good legislation; it's a step in the right direction.
Do you agree with that?

MR JOHNSON: Yes Sir.

MR BECKETT: Mr Cowling suggests that the Act is not working at all-there's no Commission set up and let's wait and see what develops and what the regulations are.

MR JOHNSON: We have indicated that we would like representation.

MR BECKETT: That's fair enough.

MR THOMAS: Well I think you should be represented; after all you're contributing into the fund.

MR SINGER: But over and beyond that, I think it is important that there be a thorough analysis of it.

MR BECKETT: Well dont you think they would do that?

MR SINGER: Well I dont know- that's what I was... was it being done? There's a lot of very technical matters in this thing that will certainly bear a thorough investigation.

MR JOHNSON: It's hard for us to answer questions when we're not acquainted with it; you can realize our position.

MR COWLING: We're not either. (all talking here)

MR THOMAS: I'd like to ask this question, on page 15 you say that the proportion of premium borne by the employer - : 100% is 47½%; now that has advantages and disadvantages. I work in General Motors, between Sessions, and the last Agreement and the one before, General Motors introduced the pension plan paid 100% by the company; but we have very little equity-no equity at all in fact. If I died tomorrow, the benefit ceases with me. Now that applies to General Motors, and how many other industries, I dont know; but if we die, the worker dies- he's got no interest in the pension plan at all; it dies with him

MR BECKETT: It's non contributory?

MR THOMAS: Well let's get this straight; it's non contributory in a way; after all it is contributory because it's

part of the fringe benefits of the employee. I mentioned this because it says that 100% of the pension plan is borne by the employer and $47\frac{1}{2}\%$ of the employees are covered in industry under that 100% contribution; but it's not quite so beneficial as one would think, because the contribution is being paid by the company on his behalf for a period of 30 years, and if he dies, say at 55, he's got nothing the plan. It dies with him.

MR BECKETT: Perhaps you should explain what you mean when you say fringe benefits.

MR THOMAS: Well it is one of the fringe benefits; it is won across the bargaining table. It is regarded as so much per hour put into the fund by the company for the employee, and therefore it's part of his fringe benefits. It's not a direct contribution by the company; the worker is paying for it out of his fringe benefits, and yet if he dies he's got no interest in the fund.

MR BECKETT: How much would it amount to in percentage?

MR THOMAS: Oh, I don't know.
(chit chat and jokes)

MR SINGER: I have another question-may I have the permission of the Member for High Park? Thank you. On the question I asked earlier on the repeal of Section 89 with which I agree; but I wondered if you have given any thought to another recommendation of the Committee, the cut off of essential services.

MR JOHNSON: I think it has been mentioned. Perhaps Mr Okeeffe, who is more familiar with all these aspects could answer you more intelligently than I could.

MR OKEEFFE: Mr Chairman, Mr Singer, the Ontario Division of the National Union of Public Employees has given this serious consideration, but if you examine the history of municipal labour relations, you will find that there's no real cause in the immediate past history to have this kind of legislation; there is no real need for it. Now the only real troublesome strikes in the municipal field have been caused by Section 89, old Section 78. But off hand

I could not recall-perhaps for four years- a serious strike in a municipal operation. Now when this need is not really there for this kind of legislation-bringing in something like we had at the recent Hydro dispute-but I don't think the government should legislate against municipal employees. It would be a further thing for the government to do to take away this from the municipal in the final analysis.

MR SINGER: I agree with you there has not been any occasion of that sort...

MR BECKETT: Just a moment, Mr Singer, does Mr Okeeffe know the particulars of the strike in Scarborough- the strike last winter where the Hydro and Water employees-they had their union and I believe had to call out their top brass in order to give services- do you know the particulars of that strike?

MR OKEEFFE: This was the International Union of Brotherhood of Electrical Workers involved in this particular strike, but we, of course, we're the biggest union in the municipal field, we represent more civic employees than any other, and our record is such that the Legislature should not have need to have this kind of legislation.

MR MORROW: But you could hardly substantiate what you said a moment ago that there is no need of some protection.

MR SINGER: Certainly there have been threats....

(three people talking at once)

MR BECKETT: Gentlemen, one at a time...

MR OKEEFFE: This is true; certainly this is the case of the Ontario Hydro, and we've got to move quite quickly on that, because here was a very serious thing. Now if you can do it there, you can do it at any one particular time, but we're saying what you did at Ontario Hydro, this was specific- a specific situation. Now to do it on a general ground, I think you take away from the municipal employee the same rights that all employees have.

MR THOMAS: Well didn't the Hydro employees guarantee that they would give essential services; they would give a Sunday

service throughout the Province of Ontario- they guaranteed that to the Commission? (yes) so that hospitals and homes and things like that- essential Sunday services, that was their proposal to the Commission.

MR GORDON: To industry as well? (no) Well didnt Mr MacAuley point out that that was impossible?

MR THOMAS: Well I dont know whether he thought it was impossible or not but...

MR GORDON: Well he's Vice Chairman of the Hydro, and he said it was absolutely impossible-the power load is there at all times- the same as it was on Monday, it was there on Sunday.

MR BECKETT: That's correct.

MR OKEEFFE: The only thing about that in particular was that it affected the Province- Province wide-now with our particular people we do not have provincial-wide units, and we could not have a province-wide strike at any one time. In any event, we do not resort to strikes only in the case of a municipality that had resortedSection 89, and as we.....

MR SINGER: Now now, Mr Okeeffe, you dont resort to strikes but certainly for two weeks of very hard bargaining on the Metro level in 1958, there was a serious threat and certainly Metro hasnt resorted to Section 89; there was a very serious threat of a strike to shut off water and sewage- this was finally resolved after much long and hard bargaining; but there was that very serious threat, and I think they meant business.

MR OKEEFFE: Mr Singer if you will recall at this time you had a pretty strong man in Mr Gardiner; now if you even go back further and examine the labour relations in Metropolitan Toronto, Brother Overkott is the President of the local union and has been for about seven years, you tell him when they last had a strike.

MR SINGER: No I didnt say there was a strike; I said there was this very serious danger- I cant think of anything more tragic either to the welfare of the community or to labour rel-

ations in this country, or this province, that water or sewage services should be shut off.

MR OVERKOTT: If I may say, we threatened to strike, and we were asked if you do strike what would we do; well we had no intention of ever touching water; now what you'd call essential and what the union calls essential may be a different thing. But I said we've got to cut out the garbage, but we would never under any circumstances touch water. I know the time you're talking about, one of our members did make a statement on his own that we would cut off water, but he was only talking through his hat.

MR OKEFFE: The thing, Mr Singer is this, when you have a very strong man like Mr Gardiner- a wonderful municipal administrator- but a very strong willed man; now, if we did not have have the threat what would have happened? Mr Diefenbaker's policy at that time :- Hold The Line-it would have been held...on wages. Now if you go back and recall the history of this situation in 1958 this is the hold-the-line year that caused all the strikes.

MR SINGER: I dont think this had much to do with Mr Gardiner- the objection was, as I recall it, whether the majority or minority opinion of the Conciliation Board should be accepted. The union was asking for the minority opinion to be accepted, and the Executive Committee was asking for us to accept the majority opinion.

MR BECKETT: Mr Singer, does that end that? We want to proceed? (yes) Have you any other questions then? Any other members of the Committee?

MR TAYLOR: There's only one thing I'd like to add, to this discussion where the question was asked about essential services; one of the biggest difficulties here, it seems to me, is who decides what is essential service. As Brother Okeffe pointed out what you may think is essential service may not be essential service to us, and then vice versa.

MR BECKETT: Gentlemen let us move on.

MR SINGER: I would like to ask some questions about #2...contracting out of civic operations, page 4 and 5. Now I think what concerns you here is the same sort of thing that concerned many people in the construction industry; in order to avoid union negotiations, Mr X who is carrying on as X Company Limited, transfers to Y Company Limited-I'm through with that union and you are out; I suspect this is the same sort of worry that underlies the thinking here. Now one of the reasons that Mr Goldenberg was asked to make his report was to deal with this and several other problems, and he came up with some sort of solution that made some good sense and it was incorporated into the Amendments to the Labour Act. Surely if this sort of thing could apply, it could be made applicable to the municipal services; is this pertinent? You should not have any objection. If a municipality...you make a statement here that it is bound to increase substantially- I don't necessarily agree- but if a municipality decides that it can function more efficiently by contracting out, has the union the right to

MR BECKETT: I would think as long as it was a fair rate of wages.

MR OKEEFFE: Mr Singer, you were greatly concerned about obtaining the essential services and so are we in saying this- services such as garbage should not be contracted out. You look at it this way; you've got a crew of garbage men who are available at a time like say, Hurricane Hazel or extreme weather conditions. Now a municipality can move its staff from this operation to meet a particular crisis and they have the equipment to meet a particular crisis. Fine. But if they contract this out to a private contractor and a situation like this arises, the municipality could very well not be able to maintain essential services because they have neither the men nor the equipment at that particular time. Now in the short run, you might say that the municipality might save money; but in the long run, they are risking the welfare of the residents of the municipality. Contracting out in this kind of

thing leaves the things in the hands of a private contractor, who when the time comes when the municipality no longer has its equipment or its men, this contractor is able to increase his charge to the municipality; in the long run a municipality would be very unwise to get rid of their men and their equipment.

MR SINGER: Well you may or you may not be right in this; it is my feeling that the Council is elected to make this sort of a decision; I think they've got a legitimate concern in the protection of the people who work; if they bargain for certain rights, those should not arbitrarily be taken away by a new system.

MR RICHARDS: Does this get votes, this concern?

MR SINGER: I don't understand.

MR RICHARDS: I was just asking if this concern that Mr Singer is speaking of gets votes for the Council concerned.

MR SINGER: If there is a reasonable protection, surely it should be up to the Council to run its own business, if they decide that they can do the job more efficiently by a private contractor....contracting out.

MR OKEEFFE: We don't see that way, Mr Singer, because, you see any municipal Council is elected to do a job; surely one of their jobs is looking after labour relations for the electors and to provide a particular service. They're elected to do that job, so what will you find them doing-giving their work- I mean this is what they're elected to do, look after labour relations and look after the essential services of the community. To me they're giving up the very things they're elected to do. They're getting rid of their job, eventually to the detriment of the municipality.

MR MORROW: I was wondering if Mr Okeeffe was conversant with the situation in Ottawa where we contract out the garbage. Now the City Council and the people down there feel that they have a more efficient garbage collection system at the present time and the Council claims they're saving- I forget how many..so many hundred thousands of dollars on it and they claim they have a more

efficient service now that runs contrary to what you say here in the Brief. I suppose it's the exception rather than the rule.

MR OKEEFFE: Of course I wouldn't agree with you either that Ottawa had a better garbage collection.

MR MORROW: Well I live there and I have the best service-much better than I had before. I can't speak for ...I can only speak for my own municipality.

MR OKEEFFE: I think you had a very serious winter in Ottawa, and the kind of thing I was talking to Mr Singer about having the available force to meet with a crisis that might crop up in the municipality very nearly happened in Ottawa. Another interesting thing is that for the first time in my knowledge in recent history in Ottawa, you had a strike of the municipal employees.

MR MORROW: There was some...

MR OKEEFFE: And you're likely to have another one.

MR MORROW: I think it's all pretty well straightened out as I understand, but they are running a more efficient garbage service. The contractor has new modern equipment and they ran a different system and they are doing a much better job.

(chit chat re different systems)

MR BECKETT: Gentlemen, unless we stick to this Brief, we're going to be here for a couple of days.

MR RICHARDS: Mr Chairman, might I suggest that the Committee look into...more closely into the situation in Ottawa, and Cornwall where this same sort of thing took place.

MR BECKETT: I was just going to ask you that you must give figures to support the statement...in the middle of the second paragraph:- "increase appreciably the cost factor to the municipality." Now you must have figures in order to make that statement.

MR EVANS: In my experience, Mr Chairman, we found it was more efficient to operate your own garbage collection. We had a lot of equipment that could be used for other things-land

filling etc; and we had at one time let it out by tender, but we found out it was much better for the municipality to handle it.

MR THOMAS: Proposals were made to the City of Oshawa last year but they said they could do a better job on their own and they are continuing to do that.

MR TAYLOR: Mr Chairman, if I may point out one factor and going further afield than Ontario; it was found down in New Brunswick where garbage collection was contracted out; and because there was a wage dispute between the employer and the employees they were prepared to go on strike, and I believe did go on strike for an increase in their wages. And it turned out that the contractor then went back to the municipality and told them he'd just have to have more money; he couldn't operate under his present set-up. So instead of him operating as per his agreement, the Council had to give this contractor more money because they had no equipment themselves- they had got rid of it. And they had to comply with the demands of the contractor. Now to us this is a ridiculous situation for a municipality to leave themselves open to.

MR STEWART: Mr Chairman, I suggest through you that the member from Ottawa should take another look perhaps because I understand too that Mr Kaufman, who has the contract now, also has appealed to council for additional funds. And another thing too the service is certainly not the same; with the city garbage collection, everything that was put out was taken. Now the workers are allowed to take so much garbage, but if you have an old chair to throw out, that you're going to pay them to take it away.

MR OKEEFFE: Mr Morrow, if you have any complaint on your garbage now, who would you contact, your Municipal Council

MR MORROW: I'd call up Sam Kaufman and give him hell. (laughter)

MR OKEEFE: That's right-he is the guy you talk to not to your Council any more.

MR BECKETT: Any more questions on Item 2- any

questions on Item 3?

MR MORROW: There is always controversy over what is a fair wage scale in the different areas. Our winter works program...for example in Ottawa they tried to make them comply with the Federal wage scale which is much higher than the local wage scale.

MR SINGER: There's been a pretty good answer worked out in the Metro area here- there's a fair wage officer and regular needs, but I wonder if you could do this on a provincial basis-maybe on an area. The fair wage in Metro may not necessarily be the fair wage in another municipality-it might be too high.

MR MORROW: Is there a fair wage....in a rural municipality?

MR SINGER: No. This is why the fair wage thing is under constant review.

MR BECKETT: I would think that under the winter works program the province would have to too. Are there any further questions under this Item? Item 4-Limitations on sick leave.

MR SINGER: Of course this is an old chestnut. Is it a fringe benefit or is it to protect employees?

MR STEWERT: It is a fringe benefit.

MR BECKETT: We've had other briefs on this and we have it under consideration. Item 5, Limitations of employer contributions to fringe benefits.

MR THOMAS: Well Mr Chairman, working in an industry where they obtained that concession last year, the company paying 100% of the sick benefit and hospitalization, I see no reason at all why this shouldnt be left to the bargaining between the Council and the union and the 50% be removed.

MR SINGER: I would be in favour of that.

MR BECKETT: You'd be satisfied to leave that to the local municipality and their unions.

MR JOHNSON: That is all we're asking for, Sir. We're restricted now; we're hamstrung by law...

MR THOMAS: Industry is gradually getting around to that- I see no reason why they shouldnt have the same concession.

MR BECKETT: Fine- Item 6 - Employer contribution to drug insurance. (chit chat) We'll consider that along with 67 together. Item 7 - Time limit for setting budgets.

MR SINGER: Any municipal council that I've had anything to do with, we fixed the budget to allow for that, if we were in the process of bargaining.

MR MORROW: Yes, I think that is common practice.

MR THOMAS: Yes, it is down our way.

MR RICHARDS; Mr Chairman, in some of the contracts I've negotiated and others too, the Councils have really held out negotiations until we forced them to negotiate with a Conciliation Officer- they purposely set their budget before they settled their contract.

MR BECKETT: Can you honestly make that statement?

MR RICHARDS: I can honestly make it; I called for Conciliation services on two contracts not longer ago than three weeks because of this very fact.
(chit chat here)

MR JOHNSON: We have read arbitration rulings where they had said that the Council has said that they did not have the ability to pay is not a concept when dealing with municipal employees; however we do run into this and it comes to our attention quite often. We just feel that they should either budget for increases or see that the money is laid aside rather than wait until they strike the budget and then say:-well, we've only got so much left, and we just feel that they shouldnt. The average contract contract expires in December-the 1st of January we're negotiating, but budget times comes and either they get too busy with the budget and they fail to find the money, and....

MR BECKETT: Mr Johnson, is it always an increase?

MR JOHNSON: No, certainly not, but we just feel it should be there if it warrants an increase.

MR BECKETT: You know the municipality is not allowed to do that; they must budget for their actual expenses-they cant create cushions.

MR JOHNSON: Perhaps we should live closer to the Toronto area where the money is available-we wouldnt have to worry about it.

MR COWLING: That's fine-that's a good suggestion.

MR BECKETT: The right to hold municipal office. (laughter)

MR SINGER: I dont see anything wrong with this at all.

MR THOMAS: I think that's something we could take under advisement.

MR SINGER: Except in the limitation, you shouldnt run for the council that you work for.

MR TAYLOR: I think this has been pointed out.

MR COWLING: Mr Chairman, on this next, Item 9,

Employees rights during annexation or amalgamation, does Mr Johnson know of some cases where the employees have become displaced persons? They finish off by saying:- (reads page 13, para 3) "This is now as,or amalgamation." Do you know of specific cases ?

MR JOHNSON: Well there is nothing concrete, but certainly the scare comes into the minds of people-I know for instance in Windsor where they're talking annexation and in some instances there will be a repetition in services, and the employees even though they have a number of years service, a number of them are afraid and what protection do they have? There is no protection and certainly when annexation comes ...all we're asking for is that there be some legislation...

MR COWLING: What I was interested in....you didnt have a case where there was an annexation or amalgamation where the employees were affected adversely.

MR MORROW: I know of cases where they have- the annexation in Ottawa in 1950; unless it was in the agreement that they take them- the teachers for example that are on the staff now-

and the ones in the town hall-they just took the key ones; the others they didnt take because they only wrote the key ones in the agreement. Any person that wasnt in the agreement they didnt...

MR COWLING: And they were out of a job?

MR MORROW: Yes they were out of a job.

MR BECKETT: We had a Brief from the police..it is something worth considering all right.

MR SINGLR: The Municipal Board is doing something along this line; I know in the Burlington case, they were considering provisions....(chit chat- cross talk)

MR BECKETT: Order please, Gentlemen.

MR OKFEFFE: I would like to give Mr Cowling a specific case. We had an agreement with the Welland Board of Education and a collective agreement Board of Education; and we found that theCrowland and Welland got together, and we found that the Welland agreement was not as good as the Crowland one, so that on the change over the Crowland employees fringe benefits were considerable-in particular I recall they had no shift bonus in Welland and they had in Crowland; in the changeover to the one City of Welland, they no longer had a shift bonus. That's just one instance.

MR BECKETT: That is only a matter of degree.

MR COWLING: The reason I mentioned it, Mr Chairma and you know as well as I do, at the setting up of Metropolitan Toronto, a great deal of discussion was put into this- I dont know of anybody that was

MR BECKETT: But we took care of that in Metro.

MR STEWART: Mr Chairman, I'd like to answer the Member from High Park-what about the Toronto Police going into Metro and their in credits and their retirement when working for the City of Toronto- you'd get six months- all that we get is about 130 days; to go to Metro they've got to have double that amount- Did you know that, Mr Singer? (yes)

MR BECKETT: All right, thank you.

MR SINGER: There were some serious problems.

MR BECKETT: Item 10, in view of the fact that this Commission will be set up, let us wait and see what develops.

MR JOHNSON: Yes, we'll bear that in mind.

MR BECKETT: Well, Gentlemen, that is it. Well we certainly appreciate , Lady and Gentlemen, your coming here; we're very much interested in your proposals and most of the gentlemen sitting around here have had municipal experience so they know it from a practical standpoint. and we will certainly take it into consideration.

MR JOHNSON: We thank you gentlemen very much for the audience.

MR TAYLOR: I was going to do what the Chairman has just done to thank you; but he has covered it very adequately.

MR BECKETT: Thank you. We'll see you again sometime.

LEGISLATIVE ASSEMBLY OF ONTARIO
 MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen Park
 Toronto, Ontario

WEDNESDAY,
 May 23rd, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H. G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCES:

Mr Ainsley Blair
 Mr Darren Michael
 Mr. William Soloniuk

PRESENTATION:

BRIEF - SEVENTH-DAY ADVENTIST CHURCH IN CANADA

SEVENTH-DAY ADVENTIST CHURCH IN CANADA - ONTARIO CONFERENCE

HOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: The gentlemen are here from the Seventh-Day Adventist Church in Canada and we'll now consider their Brief. Gentlemen, we have Mr Michael of Oshawa, who is Secretary of the Department of their Department of Public Affairs for Canada, and Mr Blair, and in place of Mr Farley is Mr Soloniuk. If it is your pleasure, Gentlemen we'll ask Mr Blair to introduce the members of the delegation.

MR BLAIR: Thank you, Mr Chairman. Darren Michael is the Secretary for the Department of Public Affairs for the Seventh-Day Adventist Church in Canada- he works on the Dominion level; and my work is similar on the Provincial level; and Mr Soloniuk is from the Headquarters in Oshawa as an observer today.

MR BECKETT: Well then, Mr Blair, would you come up here and Mr Michael too.

MR THOMAS: Mr Chairman, before Mr Blair gets under way with the presentation of the Brief, we have a Brief from them as of September 13th- are there any additions now in this latest Brief to what was presented on September 13th or what you said in Committee?

MR BLAIR: No, it is very similar but it's slanted to this Committee instead-that's all-that's the only changes.

MR BECKETT: All right Mr Blair you may proceed.

MR BLAIR: Page 2, INTRODUCTION: "Mr Chairman and Honourable Members, (reads Brief).....God Save the Queen."

The Appendix includes Exhibit A prepared with the information supplied by the Ontario Department of Municipal Affairs to which we have added an index, so that you can find the towns involved and the municipalities involved in the license fees.

MR COWLING: Well Mr Chairman, is it your organization that is involved ...that calls at the house door to door with the little pamphlets?

MR BLAIR: We have trained colporteurs who sell the books- are you not confusing us with another....

MR COWLING: That's why I'm asking the question; we

have people who come to our door regularly with a small religious pamphlet, and I suppose they are perfectly all right, but is this your organization?

MR BLAIR: I wouldnt be quite sure without knowing more about it but...

MR COWLING: Do you have the people on the corners with the pamphlets?

MR BLAIR: No, they're Jehovah's Witnesses.

MR COWLING: You are not the same?

MR BLAIR: Not in the least bit.

MR MORROW: What are the names of your pamphlets?

MR BLAIR: Oh, well they are books...we dont sell on corners like that. We sell our books...

MR GORDON: I think the only time, Mr Chairman, that they come to Brantford is the time of what they call the In-Gathering.

MR BLAIR: That's an entirely different program.

MR GORDON: Yes, one time in a year, I do remember that they call and come to see me personally too; and call at the home. And they give you a magazine...you give a donation and they give you a magazine, I believe.

MR BLAIR: Yes, that is entirely different.

MR MORROW: The City of Chatham, the County of Elgin and the Town of Fort Erie seem to be out of line here.

MR BECKETT: I'm going to ask Mr Blair the purpose of the Appendix in Exhibit A.

MR BLAIR: Because in talking over with the municipal authorities, they suggested that we should secure a copy of this and on study of it, we found there were many very high license fees, and we thought the Committee might like to have their attention directed to them; and there are some of them in the Index that we have placed there with asterisks against those places which are prohibitively high in our estimation, for instance the City of Chatham with \$300 a year; some of them are even \$50 a week; and of course....

MR BECKETT: Fifty dollars a week? Where is the authority under the Municipal Act to charge this sum for licenses? Can you point out one that's \$50 a week?

MR BLAIR: I may be able to do so....

MR MICHAEL: The Town of Hespeler has \$30 per week. Yes, the Town of Hespeler on Page 6 in the Appendix.

MR BECKETT: Yes, here it is \$30 per week. Well has anybody in your church protested the \$30 a week in that particular place?

MR BLAIR: We havent, as far as I know, we havent gone in to the area, but it's because of such fees as this that we just dont go in. For instance in Chatham, we havent even attempted it because of the fee.

MR GORDON: Do you have a church in Chatham?(yes)

MR BECKETT: Yes but in Chatham they can levy \$300 under the Act.

MR COWLING: Mr Chairman, there's one more question I'd like to ask in connection with the sale of these things and people calling at the door; there's one group that say they dont vote in the elections. This is not your group?

MR BLAIR: No. no we...

MR COWLING: I note you say you believe in good government, the Queen and so on...(yes) you do take an active part. Well there is a group and they dont vote; they want good government but they dont vote and they do call at the door, dont they? (yes) You have no connection with them?

MR BLAIR: Not remotely so.

MR COWLING: I was just wondering if some of the municipalities are keeping these fees up so high for that reason; that maybe they dont understand the difference.

MR SINGER: These fees are directed at all vendors and they dont just single out a pedlar or salesman or colporteurs of religious tracts; these are all pedlars. Really I would think they are directed in the main instance at people who are interfering with the local merchants- selling goods that the local merchants sell and not

paying business tax.

MR BLAIR: As a matter of fact, Mr Singer, there have been those municipalities we have approached-of course to approach all the municipalities is a mammoth task, and that is why we want to get legislation if we can to ease the situation; but in approaching some municipalities, the authorities have indicated that their by-law was never intended for this purpose.

MR SINGER: I would like to ask this question-have you ever gone and sold these pamphlets without a license?

MR BLAIR: Without a license where there was a license imposed? (yes) No...we dont know if we did that.

MR SINGER: I wanted to know if you did that whether or not the municipal authorities would concern themselves particularly about you?

MR MICHAEL: Until we had the information given to us by the Department as it's embraced in the Exhibit, we had not known of the existence of license by-laws in many municipalities; and I think it is only correct to say that we have not instructed our people to first go to the City or Town Hall and be assured that there are no license fees. But we rather waited until we were told about it, and then of course we made no effort to defy or go contrary to the bylaw.

MR SINGER: But where you have been into a municipality without any knowledge of the existence of such bylaw, have you ever been bothered?

MR BLAIR: Yes we have and that is what has brought us to this point.

MR SINGER: That is what I'm trying to get at; there have been certain municipalities who said you cant carry on doing what you're doing unless you pay us this license fee. (yes)

MR THOMAS: I think, Mr Chairman, that legislation is mainly directed at these fly-by-night organizations that come into towns; they're trying to keep them out. I think that's why in some cases the fee is so high; it is not discrimination against any religious organization; or to keep out those who may be considered a nuisance.

MR SINGER:

Or people who are in competition with the merchants and there is a real concern where a person comes in and sells wares, say from the back of a truck in competition with the local merchant who pays real estate taxes, and the local merchant who has perhaps, the ear of Council better than the transient trader, and he feels he may be badly done by, and he may have a point.

MR EVANS:

Of course the municipalities have to have the police in order to look into these matters, and this costs something to look into it.

MR SINGER:

I think, Mr Chairman, there's a reasonable point in this. I don't think the Legislature ever intended to allow this type of discrimination. Perhaps it never occurred to the original drafter-I think it's something that we should have a very close look at.

MR COWLING:

Well I do too, Mr Chairman; I think there's some confusion in the minds of whoever originally drafted the law about the various religious organizations. There are some that I don't think would merit the same consideration as others-let's put it that way; and over the years, there have been many groups calling door to door and on the local merchants and what-not...some of which is unnecessary and the high fee could be directed at them.

MR SINGER:

Mr Chairman, I'm afraid I must disagree with our friend here; I don't think the Legislature should intend to differentiate between one religious group and another. If there's a good point here in principle, it's to apply to all religious groups; and if it's a bad principle....I would hate to be put into the position as a Member of this Committee or as a Member of the Legislature to pick and choose between different religious groups, whether we believe in them personally or not.

MR COWLING:

I wouldn't. And I think that some consideration has to be given to the local municipal governments, because in the final analysis, they have to make the decision, not us; because it's just one other thing that can be handled better at the local level than it can be provincially; and we've all had experience on the local councils-they are the people that know those that are legitimate and

and doing a sincere job, and those that are not, and I think they should not all be treated the same. And I'm quite prepared, Mr Chairman, to make my decision on those that I think are deserving and those that are not deserving, not like my friend down here...

MR SINGER: Well, Mr Chairman, since we've got this issue in some clarity now, let me express my strongest possible disagreement; I do not think it is the task of the Government to pick and choose between religions, and I say that with all the positive conviction that I possess. We believe in this country in freedom of religion, and our legislation should reflect that. My general remarks were, I think, applicable- I think Mr Cowling will go along with me-perhaps he'll go along with me-insofar as my general remarks are concerned, that when this legislation was originally drafted, it was not intended that this sort of thing be done, and I think we should have a very close look at it. But not on the basis that anyone in Ontario should discriminate between religions....or religious groups.

MR COWLING: Just to follow that along, Mr Chairman, I know of one religious group-they dont vote- and the people that called at my house said they dont vote. Now what's the point of talking to an elected individual, who by reason of the vote is in his office and to flatly tell him that we have no interest in the vote, and yet we want you to do something for us. (short cross fire here re freedom of vote) but I cant see why they should come to somebody who depends on the vote to be in office, to do something for them; that's my point. Now this doesnt apply here at all, but it is in answer to the....

MR EVANS: Mr Singer mentioned the point that there shouldnt be a fee at all; that a religious organization should be able to come into a municipality and not pay any fee at all. It probably should be a minimum fee of maybe \$10 as suggested here, because there is some work involved-they have to check these people. They have to go out and find out what are you selling; and this after all, increases the staff of the municipality and I think there should be some compensation.

MR BECKETT: That's right but there cant be any discrimination though (no) they've all got to be treated alike.

MR THOMAS:

Mr Chairman, on the proposed Amendment that the fee should be \$10 for one year, now would that be for an organization or an individual?

MR SINGER:

Well you are quoting here from Section 410-in the revision I think it's Section 399- now Section 399 allows municipalities- certain ones- to pass bylaws for licensing and regulating "persons"

MR BECKETT:

I might tell the Members of the Committee this is one of the things that we are preparing to show the Committee the different Sections under Licensing, and we'll have them ready in a very short time; and we'll have all the parts of the Municipal Act separated that way...under Licensing and under Regulating and so on.

MR MICHAEL:

Mr Chairman, we have thought of the \$10 figure as being for the individual. This corporate license fee is used in some cities in Canada-the only one I can think of right now is the City of Montreal; it is a little bit higher, and it did have the economic value that you could get one fee-this I think was at one time \$50-it didnt matter how many people were operating under that license. But it was because we had an office there and a branch depot from our public-house. But in the vast majority of cases, it would be a case of only one individual in the municipality. But we would certainly see no objection to the provisions of a corporate license fee where a church organization might have multiplicity of licenses in a municipality of say, Metro Toronto- several scores of people. And I think, in reference to some of the comments made earlier, we have met many,many municipal councils, clerks, mayors and reeves and municipal council solicitors on this problem; everyone has told us that they have no intention to restrict us, but almost with the same breath, they have told us that the enactment of the by-law in their particular municipality came after a particularly nasty experience either with some aluminum ware salesman or with the representative of a religious group that is either active and aggressive in its techniques and methods;this was their answer. They felt concerned that steps would be undertaken that would be so far-reaching at what appeared to us as rather petty needling, which is annoy-

ing, and which for the person who has been on the other end of the needle is painful; but some of these by-laws have been very sweeping, and and it has made us feel that the freedoms afforded us under the Bill of Rights, under our Articles of Incorporation are subject to municipal invalidation, annually and sometimes weekly. And we don't quite square it up with our concept of responsible parliamentary government that we know in this province of Canada.

MR MORROW: May I ask you how many years have you been engaged in this?

MR MICHAEL: I think this has been a feature of our denominational activity, Mr Chairman, for almost as long as we have existed as an organized religious organization- over a century now....

MR MORROW: You've been in Ontario then from the beginning, not since your letters patent?

MR MICHAEL: No, because in the early days of this religious organization, as was the case of many other religious organizations in Canada now, we were administered or had jurisdiction exercised over us by neighbouring church administrative bodies in the United States or in England.

MR MORROW: I agree with Mr Singer that the religious groups have been sort of caught up on this because of this matter being directed towards other groups.

MR THOMAS: Mr Chairman, as a Committee, we could recommend that some amendments should be made in that respect anyway, in our recommendations when they are made to the Legislature.

MR BECKETT: Well when we have completed, for your information, as I said before, a summary of all the by-laws that may be passed by the municipalities, and according to the different Sections of the Act, then we can deal with it; somebody can move that that be a recommendation.

MR EVANS: Maybe, Mr Chairman, we should stop all pedlars...then in talking about business taxes, the merchant is the man who supplies the municipality with money to operate- and then these hawkers and pedlars get away with a very small fee.

MR BECKETT: What would you suggest that everybody who wanted to sell goods would have to be put on the assessment roll and pay business tax?

MR EVANS: Well either that or somekind of a business establishment in the municipality.

MR SINGER: Surely you're not serious on that. What are you going to do with Eaton's and Simpson's who carry a mail order house and do the same amount of business as ten to twenty stores but pay on a small store.

MR BECKETT: But they dont go from house to house and sell their goods.

MR SINGER: No, but there are many municipal people who feel that Eaton's and Simpson's who take thousands of dollars out of the municipalities and only operate a very small store, should be taxed more heavily in the local municipality on the basis of their business.

MR BECKETT: No but the Section 399 reads, "the licensing and regulating of persons who go from place to place", and Eatons and Simpsons dont go from place to place. (law points discussed on this)

MR SINGER: I dont think there's much efficacy in either argument.

MR GORDON: Mr Chairman, getting back to this fee, this could have very far reaching effects-this could really affect the Salvation Army; they sell their War Cry and other periodicals.

MR BECKETT: Do they actually sell it or is it a collection.

MR BLAIR: It's a priced article-it tells you how much it is on the article-the price is there- so much a copy. But the customer usually gives them a much larger gift. But they sell it; and at Easter and at Christmas, they have their special numbers that they sell.

MR GORDON: Would these by-laws affect them?

MR BECKETT: If they were put into effect, they could.

MR GORDON: These by-laws could have a far reaching effect on organizations that shouldnt be taxed in this manner, because of the work they do, and the good they do in the community.

You have a church in Brantford for instance, and you do a certain amount of welfare work and so on in connection with that church (yes) and you collect from that area to further that kind of work.

MR MICHAEL: The thing that gives us concern as a church is that what may pass as a rather innocuous innocent device, very legitimate in its efforts to try to control the problem, in the course of time, it leads into something far greater. Now we know one province which borders on this one, and it is no longer a question of licensing for sale of literature- it's a case of having to get permission to even give literature away to people. And it is not confined merely to religious literature- it had its implications in political literature and education. And we had an experience in another province in Canada with a by-law of this nature; we were almost shocked when after a very mild mention of the problem, and we mentioned it wasn't peculiar to that province, the amendment was introduced by the Premier in the next Session of the Legislature, and we were given-not just ourselves, every religious organization- all their activities were exempted from the municipal by-laws, and we were very grateful for that.

MR THOMAS: What Province was that?

MR BLAIR: I think you know that province very well (laughter) Saskatchewan. (laughter and jokes)

MR SINGER: That wouldn't have been a leading question. (laughter) Well Mr Chairman, I don't think that this province wants even a possibility of something as horrible as the padlock laws that existed in the Province of Quebec, and the persecutions that took place against the Jehovah's Witnesses; and I think that Ontario is reasonably sensible in this regard; and those who are interested can buy literature from Jehovah's Witnesses. In Ontario, it has never happened that these people have been discriminated against, persecuted, licenses have been cancelled and that sort of thing, the Ron Correlli case, that bit of history there when they took away the license-the Premier took away a license, and this sort of thing arises when we start to discriminate as between groups. I believe in the freedom of religion-I'm sure we all do; and we just can't afford any type of discrimination.

MR THOMAS:

Mr Chairman, I wouldnt want to make political capital out of this- I dont think that anyone would ever accuse me of that, but it might be just as well if we have a look at the Saskatchewan Act; our friends seem to be satisfied with it -perhaps if we had a look at it, it might help us-help to guide us in our deliberations.

MR COWLING:

I think the thing that impresses me, Mr Chairman, about your group, you say the Seventh-Day Adventist Church is Conservative.....(laughter and jokes)

MR THOMAS:

A small c, though, very very small.

MR BECKETT:

For the benefit of Mr Blair, I'd like Mrs Rowan to read the three items that have been filed with some of the municipalities of the Metropolitan area in regard to it. Would you listen to these objections of ratepayers of the Metropolitan area?

MRS ROWAN:

"The Committee recommends that the Clerk be authorized and instructed to communicate with the Metropolitan Licensing Commission requesting amendments to the Metropolitan Licensing By-Law requiring bill posters and distributors:- (a) use the proper pathways of access, and to avoid walking on lawns, going through shrubs etc. (b) to deposit their literature only in metal boxes and slots. (c) to arrange the proper disposal of wrappers around the area being distributed.

MR THOMAS:

That's a very timely recommendation around election time. (laughter)

MR BLAIR:

Thank you, Mrs Rowan. Gentlemen, our colporters are thoroughly and carefully trained in an institution before they go out...in an Institute rather, before they go out in their work; and they are constantly under the control and guidance of experienced leaders. It's not a haphazard work at all.

MR BECKETT:

Have you run across any by-laws where you are licensed where such things are in the by-laws...incorporated in the by-laws?

MR MICHAEL:

I havent seen any. I might say that 90% of the activity of our colporteurs is that of selling, and they recognize that to be a good salesman- a successful salesman, their manners

must be impeccable as well as their approach and their dress; so any man who would walk across lawns and hedges and throw wrappers is not going to be a success very long and he wont be doing this very long. But when you sell, you cant indulge in the luxury of that sort of sloppiness that these people very justifiably speak against here.

MR BECKETT: In other words, do you train these chaps before they go out? In a school?

MR MICHAEL: Yes, very definitely; they are brought in every year, sometimes twice a year for training sessions.

MR BECKETT: And how many of these are they- do you recollect?

MR MICHAEL: In Ontario, we have about 15 or 20 men and during the summer months, when the universities are out, the number grows- we dont work in the same municipality continuously or perpetually unless it's a large one; but from my personal knowledge in terms of problem municipalities, we had a good 15, 20 or 25 that we had to go and visit and we had no success; others, and I think you should make this a part of the record, after considering our problem, thought that the by-law wasnt intended to cover us, and they said: Well you just go ahead there will be no action taken under it. Now we appreciate the motivation and the attitude, but we dont have the same feeling of security; we know that somebody with some axe to grind were to complain, they would then be forced to enforce the law, and they ought to- it's their duty to enforce it when it's on the statute books.

MR EVANS: Mr Chairman, I was just wondering, is this religious material or do you sell some product to raise money for the church?

MR MICHAEL: None of what is sold is sold as a money making venture. Now, actually to make it feasible for the church to do this, the men who engage in it, we want them to be self supporting- to make enough that way. But nothing is sold as a gimmick for fund raising. We dont raise funds that way. We have one annual appeal that we take to the public- Mr Gordon mentioned it- and we confine it to that and that has nothing to do with this problem- but it is religious literature, some of it, propounding our beliefs or indicating what our beliefs

are; some of it is literature written for children; authors who have excellent reputations for writing for young people; all of the books have some religious flavour to them; we try to stress the broad themes of our religious tradition. We have a book that is being sold a good bit by some of our men is a health book written by recognized doctors, it too has a moral religious concept in terms that good health is being a spiritual asset and in the setting of one's moral and spiritual responsibilities.

MR BECKETT: Any further questions, Gentlemen?

MR MICHAEL: I was rather interested, Mr Chairman, to note the distinction as between the approach in Saskatchewan and in Manitoba on the right of municipalities to impose these by-laws. Now I think the legislation dealing with licensing there is dealt with in a more centralized way by the Provincial Government than is permitted here under our Municipal Act; and this may account for the rapidity and ease it was possible to incorporate it that was mentioned.

MR BECKETT: Did you have any experiences in B.C.?

MR MICHAEL: We have had a few instances in some municipalities there, but for some reason we don't seem to have had the same volume of difficulties that we have had in Ontario and Quebec. There was an instance in Saskatchewan where one of our young ladies was apprehended for selling without a license; there was a trial, and we were very happy that the verdict was in our favour, and I think it was partly the recital of that episode to the Premier, who I think was not aware of the prosecution, and I think I could safely say that in Alberta we have not faced this problem. We've had it in less than half a dozen municipalities in B.C., and yet we have probably just as many people doing this kind of work as we have in Ontario. Now in Manitoba, in Winnipeg, we have run into it and we have experienced it in Nova Scotia-one or two places.

MR BECKETT: Have you made a similar appeal in any other provinces?

MR MICHAEL: The only one- it wasn't a formal one- it just came up casually in a conversation and we had no idea that it

would resolve itself so expeditiously in legislation; we were of course gratified, but it hadn't reached the acute level-I don't want to give undue emphasis to that word, but it hadn't reached the same level as we had faced here, but we were afraid it was heading that way, particularly in view of the prosecution of the one case.

MR BECKETT:

Because the B.C. Act reads this way:-

"Any hawker or pedlar not having any place of business within the municipality sells or offers for sale goods, wares, merchandise or food stuffs or any other effects whatsoever"...there's no exception whatsoever in the B.C. law.

MR MICHAEL:

We're run into a rather strange thing in Quebec; there is a pretty categorical protection afforded us in the Quebec legislation; but municipalities tell us their Charter antedates the Act, and therefore in their opinion, the provisions of their by-law take precedence over the restrictions imposed by the Legislature, and we have not come up with any constitutional lawyers to give us an answer to that.

MR BECKETT:

Any other questions, Gentlemen? We want to thank you very much, Mr Blair and Mr Michael and Mr Soloniuk, did you want to say anything? (no) the Committee will take it under advisement when it comes to this part.

MR MICHAEL:

Thank you very kindly. We appreciate your cordiality that you have received us with and the kind response of the Honorable Members.

MR BLAIR:

Thank you. We are sure you will give it consideration.

LEGISLATIVE ASSEMBLY OF ONTARIO
 MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 MAY 24th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCES:

Mr. R. S. Joy, Q.C.
 Mr. Angus McCloskey
 Mr. W.M. Thompson
 Mr. Alan J. Scott
 Mr. A.K. Dixon
 Mr. I. Greenberg

PRESENTATION:

BRIEF - URBAN DEVELOPMENT INSTITUTE - (ONTARIO DIV.)

URBAN DEVELOPMENT INSTITUTEHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Good morning, Gentlemen; we're glad to have you with us and we'll go over your Brief. Would you like to introduce your members to us.

MR JOY: Yes, I would...Mr Angus McCloskey, who is Co-Chairman of the committee that worked on this Brief; Mr Alan Scott, who is the Past President; Mr Alex Dixon, the Executive Director and Mr Greenberg of Ottawa who is sitting in hearing the discussion.

MR BECKETT: Well your members have a list of the Members of the Committee and they're seated as is indicated.

MR JOY: Now the Brief as you probably have now noted is by the Urban Development Institute, which is an organization, and among whose members are some of the...most of the land development companies in the province. We have also a Canadian Institute with membership across the country fairly widely in most of the larger centres. We also have in our membership a consulting engineering firm and town planning consultants, with the result that we do think we represent a private enterprise side of land development business...quite thoroughly. Now some of the gentlemen who are here today know more about some of these points than I, and they've appointed me spokesman, because I did work on the Brief fairly generally, but I would like if necessary on some of the questions that you people may like to raise, that I may ask them to answer rather than myself. One other thing I would like to note, at the request of the Ontario Association of Real Estate Boards, that we allowed them to consider the Brief, and they advised that they have endorsed it and in their Brief, they have endorsed this section....I believe their Brief deals with other matters, but as far as land developemnt part of the legislation, they have approved and endorsed what we have to say in this Brief. Now perhaps you will note that the Brief deals with the matters we want to discuss under four headings; one other thing, the Brief was prepared in August, 1961 and filed at that time; as you will recall there's been quite a bit of water go under the bridge since then, and some of these matters are slightly

out of date. I'll try to discuss them as they should be discussed, in view of what's happened in the meantime. Now the first matter we think we'd like to talk about is the administration of planning, and I suppose, we, to some extent, are getting on the band wagon so far as regional planning is concerned. Our principal point in planning is, we think it has been on too small a basis in the past, that is it has been principally the concern of municipalities, and we think planning would be better and more objective if it were dealt with in a larger and broader basis. We think that rather than planning being principally concerned with assessment, it would be better if it were concerned with various things, such as contours of the land, drainage, environment and real need and that sort of thing.

MR BECKETT: Just there a moment, perhaps it should be part and parcel of the conservation...

MR JOY: Yes, but there's so many things to be taken into consideration in planning which we think haven't really been considered on a broad enough basis, and we think that too much attention has been paid to assessment in the past and the result is that land has been used for purposes because of assessment that perhaps it should not have been; in other words, a municipality must have a certain requirement of an industrial or commercial assessment when it perhaps would have been better if it became a dormitory municipality, and some other area got the...which was better suited for industrial assessment had that, and the assessment was shared on some basis or other. In other words, we think that the whole assessment structure should be perhaps on a broader basis as well as planning on a broader basis.

MR BECKETT: In other words, irrespective of the municipal boundaries?

MR JOY: Well the consolidating of the municipalities-perhaps we'll deal with along with this later on. We think that the Province should be divided by the Minister of Planning into what we call planning areas or regions. Now the boundaries of the size of these regions depend upon many things including municipal boundaries drainage basins, conservation, traffic arteries, economic interdepen-

dability, geographical boundaries; (reads page 2 para 3, line 6) Metropolitan.....lands in the Region."(page 3, end of para 2)

MR SINGER: Mr Joy, can I interrupt you there, I wonder...I agree that we should do plans on a regional basis, but I wonder if you're bot building in any real hurdle...

MR BECKETT: Excuse me, Mr Singer, cant the Minister do that now under the -the Planning Act...Section 2 of the Act?

MR SINGER: He has the power to designate planning areas which can consist of a municipality...

MR BECKETT: Or more.

MR SINGER: But other than Metropolitan Toronto, I dont think he's designated any...

MR JOY: No, I appreciate that, but I'm wondering

MR SINGER: That really wasnt the point I was getting at-I think the machinery is there but it hasnt been used, but the thing that occurs to me is probably going to be a real hurdle, is you have to refer back your regional planning board to rival councils-in some cases you might get 20 to 30 different councils that might be affected or controlled. And if each one has to understand and has the power to disagree with the regional planning board, I think that we might be running into very substantial difficulty...

MR JOY: Let's put it this way, we agree with you, but we think it's political. This might be more acceptable if the municipal council had some control over the conditions we impose in their particular area, in other words, some right of review. Now maybe it should be a limited right of review- I would agree with that, but I think this would be difficult to sell to municipalities unless we leave them with some control over it and that's the only reason;and I agree with you 100% that the regional planning board should have control over the region, and with some minor exceptions perhaps, that could be left to the local control.

MR BECKETT: Mr Singer, under the present Act,if the Minister did set up a planning area of two or more municipalities, they all have representation on them-they still had planning boards; but

they'd all have representation.

MR JOY: We appreciate that the present Act permits this but we're trying to emphasize that perhaps the control should be exercised to a greater extent.

MR SINGER: I think I'm right in saying that the only place in Ontario that the Minister has exercised this discretion on his own has been in the Municipality of Metro Toronto.

MR JOY: I believe that's right.

MR BECKETT: Well I don't know about the balance of the County of York; does anybody know is there an overall...

MR DIXON: I believe there is, Mr Chairman in Oakville-Trafalgar, but I think they did it themselves.

MR SINGER: There were four or five that did it voluntarily.

MR THOMAS: Mr Chairman, the legislation is there, but one of the difficulties is to sell it to the local councils.

MR JOY: I'm afraid one of the reasons is assessment; in other words the local people are afraid that if there was a regional planning board, they would be starving to death for assessment; they might be rather. I think perhaps we might have the answer later on because we appreciate that problem and we made an effort to suggest some means of solving it. But I think this thing could be sold to local councils if they weren't afraid of what would happen. Well now the other thing we suggested that this regional planning board should do is deal with zoning within the region. Now here again I think we would have to leave the local municipal some control-perhaps it should have a right to interfere...we suggest on a two-thirds vote of the members. We're just saying that this would be almost impossible to sell to the local council without some control over what went on within its boundaries as far as zoning is concerned. Of course the official plan would be of the same nature because this deals largely with zoning...

MR BECKETT: Mr Joy, if it was possible to have an official plan for a regional area, then your land use is established; then your municipal council wouldn't have to come...they would have to implement that plan (yes) and there'd be a lot of control over local

municipalities.

MR JOY: Well we think it's desirable because we are concerned with this fact that each municipality is competing with the other for assessment which we don't think it should need if assessments were on a broader basis as we have suggested. We have suggested also that....

MR BECKETT: Mr Joy, would you mind explaining to the Members- you know there's a lot of confusion in the public between zoning and official planning. When you talk about an official plan, a lot of people think that's zoning-that's only creating a land use.

MR JOY: Yes. Well for instance I suppose one of the best illustrations is that an official plan will show an area is residential, but the zoning will define the type of residential uses within that area. But it must be residential-you can make it R-1, R-2 R-3 or Multiple Family or anything of that nature. Now we think then that the result would be that the local planning board would disappear. Now some of us felt that there would be some function left that should be handled on the local basis, and with that in mind we thought we could recommend (reads page 4, para 1, line 3) "This could be accomplished.... Planning Board."

MR SINGER: This would be a municipal office rather than a provincial?

MR JOY: Well yes, what I would consider it to be would be a branch office of the regional planning office to deal with purely local matters.

MR BECKETT: Just there, Mr Joy, in Metro, we have the Metro Planning Board and also the Area Planning Board. I think it is a question to me whether that system should continue as far as Metro is concerned?

MR JOY: Well I think myself it should not continue- I'm not sure how many of my supporters would agree with me; but we feel that a better job would be done as far as the whole area is concerned if it was one office- one regional office as with Metropolitan Toronto Planning Board dealing with the whole area, and there

would be better planning and much better results; as far as we're concerned, there'd be just one body with whom we'd have to deal. And while we have the Metropolitan Toronto Planning Board, it doesn't function to the extent I think it should. Most of the planning--most of the work is done by the local boards, and in most cases the Metro Board doesn't interfere with them; and it doesn't tell an area that this particular type of new land it should not be used for this or for that; and there are many instances....but generally it doesn't deal with that type of problem. Angus, would you like to express something on that?

MR MCCLOSKEY: I think the problem of regional planning is being missed out by the Community Planning Association, the Department of Municipal Affairs and so on. I think that this Brief here has brought out the crux of the problem. If the institutional regional planning institutes another body and we still have the locals--the local planning boards and we still have the councils and then we have both departments; if it's a creation of another organization that just fits into the stream of things, it would set back planning and the development of this province a good many years, because at the present time to wander through the labyrinth it takes a couple of years; with another organization, well they argue about this and they argue among themselves it would go on ad infinitum. So the Brief...and I might say this has been given a great deal of thought, I might say, the summations of this Brief have been objectively approached and are not based on the particular interest of a subdivider. But we feel as a Committee that we have taken the position that regional planning is a very desirable thing, and on that I think analysis will show that if we are going to effectuate regional planning, then there should be some diminution of local authority and transfer of certain powers and jurisdictions to that authority, and it may well be also a transfer of some of the authority from the Minister's office to this regional body. And I think too, if you are going to get regional planning, the local planning boards will have to take a secondary position, and in some respects, the local council. Now I know this faces up terrible political problems, and it is probably to the grass roots approach of our democratic idea of municipal

government, but I suggest to you gentlemen, unless that problem is faced up to- merely to create another regional planning board would be a detriment and not an advantage.

MR BECKETT: Just while you're standing, will you explain to the Committee that there is a regional planning board for Metro and outside; how far does it go outside of Metro?

MR MCCLOSKEY: Under Bill 80 that created the Bill, the Metropolitan Planning Board was given planning authority, not only for the municipalities constituent on Metro, but every municipality that borders on Metro, in all I think it's 26 municipalities that come under the jurisdiction of the Metro Planning Board.

MR BECKETT: Does it go outside the County of York?

MR MCCLOSKEY: I dont know, because every municipality right around the periphery is included, starting with Toronto Township, Pickering, Markham, I guess Toronto-Gore..there's 26 I think. And all functions at the present time through Metro, if you follow that plan, it goes to the Metro Planning Board as well as the local authorities. But that's been set up by Bill 80; but Bill 80 in no way interferes with- how will we say- the powers of the local planning board except that the Minister will act on a recommendation from the Metro Planning Board in many cases if it's even counter to the recommendation of a local planning board; but at other times the Minister would take the recommendation of the local board and not the Metro Planning Board.

MR BECKETT: Mr McCloskey, in the formation of the Greater Winnipeg Metropolitan Government, they did away with the local planning board.

MR MCCLOSKEY: I dont know the answer to that- Mr Thompson might give you that.

MR THOMPSON: Yes they have, they have one regional planning director, and all the municipalities clear their plans through him. But they dont go outside the Metropolitan area. Mr Rich is their planning director and he came down to Toronto at the time Metro was being set up- he was the assistant planning director at that time but now he is the planning director and this was part of their plan; they thought

planning should be brought in as well as the services, and it's working out in an extremely fine manner.

MR BECKETT: There was a report that the metropolitan form of government in Winnipeg was not working as satisfactorily as the Toronto form of government.

MR THOMPSON: Yes, that's government, not planning.

MR BECKETT: (laughter)
No, no, it took in all forms of government- well that's not correct then?

MR THOMPSON: Well the elected persons are elected at large in the Metropolitan form of government in Winnipeg, and not appointed by the municipalities as you do here. They're elected from regions at large. But for example, the Mayor of Winnipeg has trouble when it comes to the other regions that he's not on; it becomes quite a conflict, but that is entirely political, not planning. Rich tells me that it's working rather well.

MR SINGER: I was out in Winnipeg a few weeks ago, and the functions of the men who hold the positions in the metropolitan system were subject to much more criticism than those in Metropolitan Toronto. Maybe because it is newer, or it may be that at its head there was not such a dynamic person as we had at the head of the Toronto system. I submit, Mr Thompson, I don't think you can separate the planning in this type of system...you're not going to get this thing functioning unless the political units coordinate in its function. One of the great faults there is that Mayor Juba, the Mayor of Winnipeg is not very happy with an authority superimposed on top of him. And he apparently holds forth at great length and frequently on the horrible things that Metro is doing to the detriment, in his opinion, of the City of Winnipeg.

MR BECKETT: Well this report in the paper was that too much power was taken away from the local authorities.

MR SINGER: It's a constant battle and it seems to revolve around personalities- this is my opinion.

MR BECKETT: Mr McCloskey, you used the word secondary when you referred to the local planning board- I wonder what you

meant by secondary.

MR MCCLOSKEY: Well I meant as indicated in the Brief submitted by Mr Joy today, that the original planning board is set up and to a large extent the local planning board would disappear except for certain limited functions or conversely, they be branches...not exactly conversely, but probably in principle, that the regional planning board have representation in each municipality- they could have representation. But that representation would be, so to speak, a branch of the regional planning board rather than a separate planning board as is presently constituted under the Act. Do you agree with me Mr Joy?

MR JOY: Yes, a sort of a civil service- local planning directorate.

MR MCCLOSKEY: But their responsibility on the local basis would be the regional planning board. The other point, of course, is that we realize that this is a very difficult problem, and it's breaking a lot of new ground, and you couldn't...maybe eventually you'll see it in this country that the council's authority on planning matters may be largely secondary; but council could be given, without eliminating council on the whole stream of approvals, that they could only veto a decision of the regional planning board with say a two-thirds majority. I would like to-in view of the fact you have been so kind- I would like to emphasize on point, and that is that planning is being done as an exercise in assessment and not an exercise in planning; and the municipalities are in that position-they find themselves in that position for a number of financial reasons; time after time in metropolitan areas, land is being used, not on the basis of what it should be used for under a proper planning on urban growth; but used for purposes dictated by assessment considerations; and that is one of the most basic difficulties we have at the present time. The arbitrary making the plan and then zoning of certain lands for industrial use that aren't really suited for industrial use, but simply to make some additional industrial land in the community- a very great example is a municipality has lately legislated that the size of the houses must be stepped up; and this particular area which is suited for modest homes-this municipality said:

you must have houses going up with 1550 sq. feet. Now of course, those houses run from \$20,000-\$25,000. That isn't on as a reason of planning because that particular area is not suited for a Bayview approach, but simply because these houses will produce more revenue for school taxes. Now I realize that the municipalities have a difficult position, but the trouble is that at this moment in this, most of our municipalities are planning as an exercise in taxation.

MR BECKETT: Mr McCloskey, I can't really follow that because once you've got your official plan, which creates your land use, then the council cannot change that land use for assessment purposes.

MR MCCLOSKEY: The land I was mentioning was residential; the municipality has the authority by zoning, to declare what class of residential. They can't change it to industrial or back and forth, but they can make application to the Minister to change it and if they get the Municipal Board to change it. And I know of official plans that were drawn on a simple basis that...this land is high priced housing and everything is industrial and that doesn't make...

MR BECKETT: My point was that when your official plan is drafted by our Planning Board, they set out the land use, and from my experience is that they don't discuss it from the standpoint of assessment - the official plan. I mean the Planning Board...

MR MCCLOSKEY: I wish that was a fact (laughter)

MR SCOTT: Mr Chairman, there have been examples where Metro Planning Board has gone against what the municipalities have approved; specifically in certain areas in regard to industrial requirements. And the municipality has felt that it has to absolutely have industrial assessment to prevent housing going on there which would increase the need for more money for schools. And they have overridden that in this matter in the Municipal Board. Now I think that unless an amendment has gone through at this Session of the Legislature, that the Metro Planning Bd must not have overall authority over the so-called subsidiary planning boards, but they are on an equal status, therefore one may fight against the other at the Municipal Board.

MR JOY: That's correct.

MR SINGER: The other question along this line, Mr Joy, is there really any need for a continuance of planning boards? Any planning boards that I have been connected with seem to be influenced very substantially by the council members sitting on them; and it just adds an extra step-would there not be some sense to having a planning arm of the municipality run by a committee of council and responsible to council, which in effect is what is happening here?

MR JOY: It's actually that; for all practical purposes, there are two or three elected representatives on the average planning board and they really dominate the scene pretty well, and really what they're doing is acting as a committee of council and making recommendations to council. That's really all they can do.

MR THOMAS: They have representation on the Board though; the voting strength really lays with the persons appointed, not the elected representatives.

MR JOY: If experience has been rather limited perhaps, but usually the elected people are dominated...I mean the appointed people are dominated by the elected people.

MR BECKETT: Well the elected people appoint the other part of the planning board. (laughter)

MR SINGER: And then if you have a head of a municipality who is a strong personality, many many cases I've seen, he just takes over.

MR JOY: Well Mr Singer, in Greater Winnipeg, they only have a director; there's no planning board.

MR SINGER: Well that's the point I was making a few minutes ago-would there not be some advantage to this, perhaps eliminating a step.

MR JOY: I don't think that council could deal with this direct; I think someone's got to deal with it, and perhaps it should be an advisory committee advising the director.

MR THOMPSON: Mr Chairman, I travel extensively and in Montreal, they have no planning board as such; they have a planning consultant and they have a township engineer and a township clerk- this is in the suburbs- these three, and if a plan is submitted, if it passes

that , it goes with their recommendations to council. Mr Singer suggested that this would save time-it saves any amount of time. We can have a plan prepared for registration, and the specific town I'm dealing with in the Montreal area is Beaconsfield; and our latest plan was available for registration in about four months time. The best we can do here is two years. On the preliminary of that plan, we deal with the planning consultant, the town engineer and the town clerk, they form a body of three, called a planning committee; they report to council and we appear before council and they endorse our plan, and they have before them the report of the committee, and it is passed or rejected.

MR COWLING: Well how is it that that small group can act more swiftly than the larger group; they're both doing the same thing, aren't they?

MR THOMPSON: Yes they are but in a different way; when you appear before the committee of the planning board, they don't agree and they even have conditions where the members don't agree; if they don't agree it always goes back to committee, and that's two weeks delay. In the most recent plan submitted to Metropolitan Toronto, not registered yet, we have already sent in 44 copies of our plan. Now it seems there's 44 different persons are sniping at that plan of subdivision that we're endeavouring to bring to registration. Now if there's 44 people, how in the world will we ever get 44 people to agree? We haven't yet had approval, and we've been at this one particular plan just under two years.

MR COWLING: We haven't been able to get 44 people to agree around here either, so (laughter) Would your group be in favour of reducing planning boards to the status of the small committee of technical experts? Now I realize that on many of our planning boards, there are, shall we say, political appointments by people that in some cases really haven't any technical knowledge of plans- I would think of myself as one; technically I don't know much about a subdivision plan, and there may be people no doubt on planning boards in the same position. Now you think if those people were eliminated-it was reduced to two or three people who actually knew planning and so on, that you'd

get more action and more efficiency?

MR THOMPSON: It'd be a might help; for example, Mr Cowling, if you were appointed to a planning board this evening, you'd be an expert tomorrow-they all are. (laughter)

MR BECKETT: Mr Thompson, speaking about Beaconsfield, you dont have to go to any other body to have that plan approved -just Beaconsfield Council? (That's all) Now the other question I was going to ask, supposing the adjoining municipality...is there any co-operation between the adjoining municipality and Beaconsfield?

MR THOMPSON: Not that I know of.

MR SINGER: Does the province have a legal right an overall right to...

MR THOMPSON: If they have, it's never been exercised.

MR THOMAS: Mr Chairman, I think the suggestion is a very good one, but I wonder why you leave out the assessment commissioner on that committee. (laughter and chit chat)

MR BECKETT: I was wondering, Mr Joy, if you or one of the members could briefly tell the Committee the procedure now, to get a plan registered.

MR SCOTT: I have been working in Etobicoke with the Home Smith operation; the zoning is one side of the operation- the official plan and zoning you have to deal with separately. As far as the subdivision is concerned, you submit this to the Department of Municipal Affairs, Community Planning Branch; they ask for 14 copies of the plan, and they circulate these to Metropolitan Toronto, who then send it down to Etobicoke, and if you're anyway near a railroad, send it to the railroad company, or to the Bell Telephone Company and any other authority of that nature, the water resources, the Hydro, the conservation authorities, Board of Education- I think there are about 20 boards or agencies that we have to deal with. Well it gets down to the planning department of the municipality and then the local planner gets his pencil out- and this is where our troubles begin. They then circulate it within the municipality to the planning, engineering, school board and so on; and they have to get an agreement, and they

set the conditions with all the changes that they might make on it, and we're continuously in negotiations about the changes. The planning board then approves; they send it to the council and after the council has approved it, it is then sent back to Metro, and then all Metro people add their say to it; it then goes up to the Province, and this time to the Board of Resources and the Conservation Authority and so on; they all have had their say about it, the Minister then sends it to us stating what he will approve as a draft plan. Now that's just about it and then we have to proceed to registration at that stage after that.

MR BECKETT: Those conditions are sent to the municipal clerk as well?

MR SCOTT: Yes, and then we have to start on the next stage, to get the final approval for registration, which are more a matter of time, again checking by the departments in the municipality and any of the other features.

MR MORROW: And the survey office turns out another 40 copies...

MR SCOTT: This is the second key matter.

MR BECKETT: Well then there is no specified time how long it takes to get a plan? (no) How many weeks does it take to get a plan registered?

MR SCOTT: Under the present system, it takes about two years. If you get into a problem in zoning, you can go on and on.

MR JOY: Well we think that the regional planning and the elimination of a lot of these intermediate steps, removing some of the steps that are now handled in the Department of Municipal Affairs would speed things up and have a better result as far as planning and certainly expedite matters. Now the next thing we want to discuss is the matter of Municipal Reorganization. (reads page 4, para 2)"To be considered because of..... greater degree than at present."(page 4,(2)

MR MORROW: It would be impossible for the province to take over the whole cost of education, because it would use up pract-

ically all of our budget.

MR JOY:

Well I dont know how much the province could take over-someone's got to take it over because I dont think the municipalities can handle it.

MR MORROW:

We're spending about 45% now-but the total of educational budget would take most of our present provincial budget.

MR SINGER:

43% is closer.

MR BECKETT:

I thought you meant by this (2) the education would be spread evenly over your region, or area.

MR HOY:

Well that's one answer- spread over the region or over the province in some way and redistributed on a per capita basis. These ideas could be developed, the province taking on the larger share; I suppose the result would be an increase in the sales tax-there'd be some form of taxation necessary, and we feel that could be the result...

MR COWLING:

We find that very distasteful (laughter)

MR JOY:

It's not the popular thing to suggest but I think it's probably what's going to happen.

MR BECKETT:

Mr Joy, when you remove administration away from the local people, do you find that your cost of administration goes up?

MR JOY:

Oh I dont think you could get education up any higher than it is right now. (laughter) Maybe it would, and maybe the money should be furnished on a per capita basis. These are just my own ideas and are not expressed in the Brief. I think you'd have to leave a large part of the administration at the local level. It seems that finance is really what we are talking about; we've run into situations now where there are municipalities saying to developers -we cant afford your development unless you agree to pay the deficit in education- the perennial deficit in education on your particular area. And this is something that is almost insurmountable; you can appreciate their points of view; but on the other hand how can you develop on that basis, if you are expected each year to come up with a huge sum of money to cover this deficit. So it is really the problem arising from present

development, and it certainly arises from regional planning if you get some municipalities with more commercial and industrial assessment than others. How do you solve where the money comes from to pay for education? These are a few thoughts we have that (reads page 4, para 2, (1) "Commercial and industrial..... one governing body." (end of para 2.

MR BECKETT:

Before you get into that now, you include social service cost. No doubt you've all seen the survey in connection with the public services and the movement that's on foot to have social services federally handled. Well I wish you would analyze the cost of social services in the City of Toronto as compared with some of the area municipalities; now would you want to have the same cost in social services spread that they have in the City of Toronto? I'm thinking about the places like Leaside, Swansea, Forest Hill; their cost of social services are nil.

MR COWLING:

They all come to Toronto to get social welfare.

MR SUNGER:

This is true; there's no doubt about it that people who have to live in substandard accommodation, and people who are unemployed or problem cases gravitate into the core of the city; and the city is absorbing social welfare costs that really should be the responsibility of the whole area.

MR BECKETT:

There's no question about that; but there is one reason they come because they can get more.

MR SINGER:

No, I think it's to get substandard accommodation which isn't available in Scarborough.

MR COWLING:

Of course if we get back to the basic thing, how far are we going with the social services? You know are we going to hand out these things on the cradle to the grave idea; or are we going to put some responsibility on the citizens to run his own show; that's the whole thing in a nutshell-but you're not here on social services. (laughter)

MR JOY:

Perhaps we shouldn't have put that in, but it's one of the problems with municipal financing.

MR SINGER:

I think it's a real problem; you ment-

ioned Leaside and Swansea, and it is only a geographic accident and the stubbornness of both municipalities that they've built themselves little islands and are able to carry on at the expense of the rest of Metro; there is no reason why someone living in Leaside has ten mills less in his tax rate than somebody living in North York.

MR JOY: We can touch on anything in here now-urban redevelopment.

MR COWLING: I think that would have a pretty tough time consolidating municipal governments in these regions. You mean to take a region where there might be 15 municipal councils and come up with one?

MR JOY: Like Metropolitan Toronto- it still has not been successful...

MR COWLING: Oh it's a great success- it's working out fine here.

MR JOY: No, I mean you haven't eliminated the local municipal government.

MR BECKETT: There's a meeting tonight in the Bayview High School at Richmond Hill-they want me to go- between Markham, Vaughan, Richmond Hill and Woodbridge- this is just the formation of a metro government, but not doing away with their own governments; but getting together on services.

MR COWLING: In order to economize.

MR BECKETT: Yes, it's a very practical method of municipalities working with one another and it might lead up to forming one council. All right Mr Joy.

MR JOY: We were noting the imbalance of assessment.

MR SINGLER: One other suggestion, there should be some method of suggesting or inducing industries to locate in specific areas in addition to zoning.

MR BECKETT: By what means?

MR SINGLER: Oh, assessment inducements or depreciation inducements or ...

MR JOY: Well our thinking was that the necessity

for that is not there, because if we had all these assessments totalled on a regional basis, it wouldnt matter really within the region where they were located. I think Metropolitan Toronto does that sort of thing.

MR COWLING: We have the Metropolitan Industrial Commission that does a certain amount of that.

MR JOY: The average small municipality just doesnt have the finances to hire people- trained and professional people so to speak; and if we had this on a larger basis of taxation, this could be done.

MR BECKETT: Mr Joy, what youare suggesting in 1,2, and 3 is something that was suggested in the province nearly 40 years ago.

MR JOY: I think the political reasons for most of these municipalities have disappeared-these people arent as conscious of living shall we say, Swansea; if you ask the average citizen on a trip to New York where he lived; he wouldnt say Swansea-he's say Toronto.

MR COWLING: But when he got back home he's say Swansea (laughter and chit chat re Swansea and Toronto)

MR JOY: I think that different concepts of government have reduced the importance of these small municipalities.

MR BECKETT: I agree with that. (more chit chat)

MR MCCLOSKEY: If you look at the DBS statistics, they can check this very carefully now by means of the baby bonus- 25% to 27% of the families in Canada who receive the baby bonus change their residence each year. And 60% of the families in Canada get baby bonus from which this 25% to 27% is taken; and even if you forget the other 40%, you still have a 16% turnover. On the average, every six years, people have changed their place of living in Canada. The thing that's being overlooked is the tremendous mobility of our population; so I dont think that this grass roots allegiance is as strong as some people think. And in urban areas in Canada, it's markedly being shown that there isnt the orientation to the local municipality that there used to be.

MR COWLING: Does it show that the people with the

families are the movers?

MR MCCLOSKEY: The statistics show that of the families in Canada receiving baby bonus, 25% to 28% change their address every year. Now some might move three times, and some may not move.

MR MORROW: 5% of that would be the armed services.

MR MCCLOSKEY: Oh, I don't know, there are 4½ million families in Canada....

MR MORROW: We notice in Ottawa a very high percentage of the mobile population are armed services, because of the Head Quarters of all the services being there.

MR MCCLOSKEY: Another factor in the mortgage business, people that make the first payment on mortgage and the last payment on any NHA mortgage is approximately a fraction of a mill of one percent. The average 20-25 year NHA mortgage usually has on the average, five owners. So the theory of the same people paying off the mortgage in a 25 year period, well it's a different person making the first and the last one. But I'm sorry, I'm wasting your time. (no no, not at all) Well it proves that Canada has a great liquidity of movement.

MR JOY: (reads Page 5, para 1) On the other hand.....expansion and development." (page 5, end para 2)

MR BECKETT: I suppose this is a matter of being over governed.

MR JOY: Yes, too many and too many unnecessary governments. Mind you I think in sparsely populated areas, there's a lot to be said for the local government, but surely in most of our more densely populated areas, we have too many governments and too poorly financed. (examples of Cookstown and Mimico)

MR COWLING: I don't think I could go along with you on that, because to them locally, it's a pretty important issue and I couldn't favour cutting down on this; going together that's fine, but to tell a municipal council they're out of business, even for good reasons, and if the local councils think they should operate on their own, what's wrong with that? After all they're under the supervision of the Department of Municipal Affairs before they start and there are

certain rules and regulations and laws that they have to abide by.

MR THOMAS: Mr Chairman, doesnt the government recognize this need for coordination or amalgamation in the very fact that they give a grant to the county assessors of \$1500.

MR COWLING: Yes, but they're not consolidating the municipalities....

MR THOMAS: No, but one of the objectives, I think, should be an efficient government.

MR COWLING: Well could you talk to any municipal council in the province and have them say they're not efficient?

MR SINGER: Yes, yes indeed. I spoke in Timmins to the Town & Country Section of the OMBA, and I spoke to them substantially along the lines as I spoke to this Committee, and I made this suggestion that there were too many municipalities and there was substantial agreement from the delegates who were there.

MR COWLING: You go to a local council...

MR SINGER: Well these were Mayors and Clerks...

MR COWLING: Oh it's fine when they're a long way from home....(laughter)but get them in their own back yard and see if they'll admit they're inefficient. You never thought you were in North York, and I never thought I was in Toronto.

MR BECKETT: For years we tried to form a metropolitan council without legislation; we couldnt do it. It had to be done by legislation. (cross talk about Toronto)

MR COWLING: But moving out from Toronto in local smaller areas, if the people get together under the supervision of the Department of Municipal Affairs, and want to set up their own show, I think they should be able to do it.

MR JOY: Mr Chairman, we're not pointing at places like Cookstown particularly; we're pointing at places where there is an urban development going on where they do need this more expensive and more efficient staff. I quite agree that there are areas- rural areas- where they should have their own local government, but once they get into the problem of urbanization and development of

that area, then I think there's got to be financing of better services.

MR COWLING: Maybe they dont want the services.

MR JOY: The trouble is they get them...they do want them- some do and they dont handle them properly and they're in trouble.

MR COWLING: Well the 975 municipalities in the Province of Ontario, there are very few of them that wind up in trouble. They're mostly doing a pretty good job, and have for 100 years.

MR JOY: I agree but it isnt as efficient a job as it might be if they had better staff and were more consolidated in the larger areas; that's our point anyway. Now we have another section dealing with the Municipal Board Act; of course this section has been amended since the Brief was filed, and there's only one thing I should like to say about the amendment; I think that the 60 day period should be reduced. We think that the effect of the 60 day period is to suspend the effect of the decision for a longer period than is needed, and that it should be reduced to similar to a court decision, to 15 days or 30 days; but 60 days is a long time for not to know whether your decision is good or bad.

MR BECKETT: Prior to this amendment, there was no stated time in which you could appeal; it left everything right up in the air-it could go on for years; and the 1962 amendment brings it down to a definite date. It is better.

MR JOY: Oh yes it's a great improvement, but we feel 60 days is too long a period, and that was our point. Now I want to deal with Section 28 of the Planning Act. This is the Section under which you proceed with a development of a plan and we feel (reads page 6, para 2, line 1) "One of the principal.... would result."(end para 2)

MR EVANS: Mr Chairman, in my experience, in many cases, the subdivider charges the same amount for the particular lot whether the services were there or not- I think that is the reason why many municipalities put these very things in there.

MR JOY: Well the only thing I could say is that when we didnt have to put in nearly as many services, the lots

werent nearly as high as they are now; the subdividers are business men and they're going to sell the lots for what they can get, but one of the points I would like to make is one of the reasons why they're gettin such a high price for lots is not only the cost of installing the services, but making them install these services creates scarcities and there isnt the competition in the business; if more were in the business, then the price of lots would be reduced. Now I will agree with you the subdivider has charged what he thinks the traffic will bear irrespective of what he's put in there. But this policy has created scarcities and has a lot to do with the increase of prices. We think that if the amount of services required to be installed were on a more reasonable basis, it would result in a reduction in the cost of land.

MR THOMAS: Now what would you eliminate?

MR JOY: I would eliminate sidewalks and curbs on closed streets; and storm sewers connected to every house. These, we dont think are essential and that people shouldnt be asked to pay for them unless they really want them. I live in a district known as the Kingsway in Etobicoke; we dont have sidewalks on our streets; we dont have curbs with gutters nor storm sewers; we have paved streets. I've lived out there since back in '37- I've never experienced any serious lack of these things; and there are houses on my street worth a bit of money but these services werent considered to be necessary. Now those are illustrations of things that could be eliminated until such times....sidewalks..we have cul-de-sacs with half a dozen houses on them-no traffic at all- and yet there has to be a sidewalk all around the circle-I dont think it's necessary. Another thing is a tree on people's lawns; half the people dont like the tree and they cut it down.

MR GREENBERG: I'd like to bring out on this point from the Ottawa area, we may not have to provide the same number of services as is required by Metro, but I would say even in our area we supply basic services, storm sewers, curbs, tar topping on the roads, of course water, and no sidewalks. But I think that the high cost of lots- we as developers dont mind too much, but I would say that the municipality

haven't cooperated in the same degree that the subdividers have. In the days of the early '50's even, when everything was not open two foot-one kind or another; then we went to the 332 form with a partial payment of some of the services; the main difficulty that I see is that the municipality, regional bodies, government bodies, and plan five or ten years ahead with large storm sewers, with sanitary, with water. Now I think the subdivider is expected to do too much; everybody says you do it, you do it; we're doing it and we're still making money—we're not complaining, but I think that the municipalities have not been able to plan and there is a maelstrom of people not knowing just what you do and how you do it....I would say we, as subdividers are cooperating much more than other levels of government who are or should be concerned.

MR BECKETT: Do you think it is better to give the purchaser of a lot a package deal with everything in it or let the purchaser petition for a certain amount of local improvements?

MR GREENBERG: I think that everything is done better by the subdivider, the people are happier and it is done in a more efficient manner.

MR SINGER: You've got a very serious problem that the municipalities are not able to finance local improvements, and most haven't just got the capital dollars to finance any program; the municipality can only go so far and then it's got to say: Mr Subdivider, if you want to come in, we haven't any way of putting in local improvements, you have to do it. But if they are asking too many things from the subdivider at the other end of the slide, somewhere along the line, there has to be a happy medium.

MR JOY: There are some, particularly those in the urban areas that are requiring more than the people really need, and there should be some consideration given in spelling out what is the responsibility of the subdivider.

MR SINGER: Yes, if they can't afford it they have no other choice.

MR BECKETT: And they're taking away the right too

of a man to say whether he wants the street paved 24 feet or 28 feet; he might not want curbs and gutters and he might not want sidewalks.

MR MORROW: After all if you dont put this in as a package deal then they all petition and it costs more in the long run.

MR GREENBERG: My point is that in the early '50's it is true that people petitioned for local improvements-this is now forgotten by the councils because it is now the subdivider who is petitioning for area service- area water, area storm outlets and things like this. And what we would like to see is more of these larger sewers which we can not plan for a municipality or any area, and I think that this is where we have failed to recognize that the high cost of lots is not because one developer has to put in a sidewalk but the lack of knowledge and the uncertainty of the people who do have serviced lots can command an exorbitant price for them.

MR SINGER: A lack of knowledge or a lack of money? The municipality hasnt got unlimited sources of capital funds.

MR GREENBERG: In the old days they did have money for water and sewers, but nowadays they dont have money or not sufficient money for overall area sewers.

MR JOY: This problem of servicing large areas and putting in trunks was something that we have given a lot of consideration to and we think that one of the present reasons for the high cost of building lots and development of land is largely this scarcity of land that can be serviced. As a result of representations we made at Ottawa, the CMHC does lend money to municipalities for the purpose of putting in these trunks and we think more of that would reduce the price of land and the cost of lots-in other words create a supply.

MR THOMAS: There are some areas where there might be no need for sidewalks but in other areas, where you have a large school populations, if the children are forced out on the road- the traffic hazard- I think you would have to provide sidewalks in areas like that.

MR JOY: My point was we didnt need them in cul-de-sac streets and side streets . I quite agree that on main arteries

and shopping centres and schools and so on, there should be side walks.

MR. COWLING:

You mentioned the Kingsway, one of the finer sections in Canada, and lots of children there and lots of play areas and there's never been a need for sidewalks; and to me it is one of the nice parts of the area that they don't have sidewalks and curbs and gutters. It gives it the little rural touch.

MR. JOY:

One of the things we considered wrong with the Planning Act is subsection 5 of section 26, (reads page 6, para 4, line 1) "If it is the intention..... developing land."

The Urban Development Institute appealed the conditions imposed by the municipality and the Minister to the Ontario Municipal Board, and the OMB didn't show us much sympathy, and we ended up in the Court of Appeal. Now we weren't for a moment expecting to get out of the Metro Toronto levy for sewers, or get out of installing internal services; frankly we wanted to demonstrate that there was no authority in the Act for the imposition of these things. We were saying this Subsection 5 did not mean what it appears to say, and the Minister, in imposing conditions, must have consideration for what is referred to him under Subsection 4 of the Act; and we took the position that this section did not authorize the imposition of the Metro Toronto sewer levy. The Court of Appeal disagreed with us and Mr Justice Laidlaw and Mr Justice Schraeder went so far as to say that no matter how ridiculous the conditions imposed by the Minister were, the courts had no control over them. Any conditions the Minister chose to impose, he could impose it. I would submit that this Committee should consider a revision of that subsection so that some limits or some area within which..the boundary of which the Minister imposes conditions should be specified. We strongly object to that because we feel it's unfair to everyone concerned that the Minister should have such a broad discretion, and Goodness knows who the Minister might be some day- there might be a change of Government and then...(laughter)

MR. BECKETT:

You didn't go to the Supreme Court of Canada?

MR JOY:

Well we couldn't afford it-we started off but by the time we got out printing done and so, we just decided we'd drop it. I thought I would come here and tell you exactly what was said in the Court of Appeal as to the meaning of this Subsection, and I think most of you people here will agree that you never intended to go that far. when you enacted this Subsection.

MR BECKETT:

They're pretty wide words, aren't they?

MR JOY:

We think there should be some boundaries within which this discretion is to be exercised, should be defined, so that we will know and you will know and the municipality will know how far the Minister can go. One of our problems in this business is that these conditions are always changing from time to time; you buy a piece of land and by the time you get it ready for development, the ground rules can all change and there is 25% or 30% more the developer has to pay than when you arranged your financing. Now the rest of our submission deals with Subsection 28. We say that in "1. the services required (reads page 7 line 1) to be installed.....to use such services." (page 7 end of para 3) Here is one that gives us some concern. What happens now is. ..

MR MORROW:

We had that last winter, the City of Orillia- they had a Private Bill...

MR BECKETT:

And also Toronto Council. The Department was said to be very strongly against it.

MR SINGER:

One very substantial argument against this, Mr Joy, I recognize the equity-but a very strong argument to my mind against this suggestion is if the municipality acts as a collector for a man who's had to put in all these services, then it maybe some considerable time to produce these; in the meantime the man who has made the original outlay and has been paid for, has probably taken his profit on it and he benefits twice. Now this is a very serious thing. The developer is not going to be able to develop and wait for an indefinite period to get some of his money back unless he's properly able to finance and so on; and while there are inequities to him on the way about, there would be very substantial inequities to.....

MR JOY:

The answer to that argument, what profit he takes on his land wouldnt be nearly as great if he hadnt had to make this additional payment. I dont think this problem is necessarily based on that payment.

MR BECKETT:

The chief objection was making the municipality the collecting agency, along with the other...

MR SCOTT:

Mr Chairman, I dont think it was our intention that the municipality should be the collecting agency; the point is that whoever initiates the trunk services, whichever developer goes first, he should be put into the position that he should be able to collect back from the other people as they tap in. In other words the purchasers of homes from the first developer should not bear the brunt of all these costs; that it may be apportioned and be picked up as the other people building homes carry on.

MR SINGER:

If you can suggest how that can be done by the first owner, I would be much more sympathetic; but I dont see how it's ever going to be apportioned.

MR JOY:

Mr Singer. when a developer sells his lots-he has paid more than he should towards services, he doesnt increase his price for that amount; he meets the market, so actually his profit is reduced by the amount he's paid for those services; and he's entitled to pick that up later on. We just draft that out; we all agree that a developer must sell his lots in competition. Supposing lots in the area are selling for \$5,000, and because of this oversized sewer, his services cost him \$500 more per lot than his competitor-his profit is reduced by that amount, and therefore he should be entitled to pick that up later on.

MR BECKETT:

Who's going to pick it up for him?

MR JOY:

Well I recognize this problem.

MR MORROW:

Wasnt this your objection to the Orillia Bill? The collection part of it?

MR SINGLER:

Yes, part of it.

MR BECKETT:

Then they went farther, Mr Morrow, they said the municipality should be prohibited from giving a building per-

mit to anybody who wanted to use those services and hadn't paid their share.

MR SINGER: It's the old cliché the developer chooses his time, his place, and having made that choice, he's stuck with it. Nobody says you have to buy that land or that you have to develop it in such and such a month or year.

MR SCOTT: May I add it has been a tradition that one of the functions of the municipality has been to provide services; the pattern is changing today to the developer; but the developer does not have the advantages of the municipality in certain matters of trunk services. Some will service up to a point where 1000 acres fall in; this is a great advantage; but we still have outline areas where municipalities will not do...will not always help us to do it in an equitable fashion.

MR JOY: The next one is one I would like you to take a look at. (reads page 7 (iv) "Should the owner..... ten years." (page 7 end of (iv) Now we consider this to be a more equitable arrangement than what's presently pertaining. What happens now is, in Metro Toronto, in some areas you pay \$2.50 a foot frontage towards the Metro levy; some areas where new services are used don't pay any levy; some pay \$5 a foot levy. We think this money should be considered on the same basis as a loan by the developer to the municipality, and it should be repaid at a...some basis such as a tenth a year without interest or something of that nature; in other words a man who pays this levy when he buys his house should be given some credit for it against his taxes. This would serve several advantages, the one would be making it more equitable for the chap who has to pay levies; the second is that if the municipality had to repay the money, they'd be more careful about how much they borrowed in the sense from the developer to finance these services, and it would be an answer to the question that we've heard so much about today and which I think is right that is the municipalities can't raise the money for these services and they must get them this way. This is the way they're getting them, and they're taking them out of some of the citizens and not others. We all know that some of the services paid for by Metro Toronto levies

served areas which arent charged with them and we think it's inequitable on new developments.

MR BECKETT: You dont think it's a fair treatment over the whole metropolitan area. (no)

MR SINGER: Who gets this money back?

MR JOY: The purchaser of the house-it's a reduction in taxes. Now this other one is this 5% dedication (reads page 7, para (v) "The 5%.....for parks." (page 8, end of para 1) What's actually happening is that some municipalities are adding the whole sales value of the subdivision, including the shopping centre, park lands, the sales value of all of the lots and then saying, we want 5% of that- the final value of the subdivision. And we think it should be spelled out in the Act what is meant by this, whether it is 5% of the value of the raw land or that it isnt; so we'll know what it means. Now there has been a recent decision by the OMB which indicates the Board thinks the Section means the raw land value (cites Hamilton case) This is a variation of what we're saying here, but we think the action specified is the value of the land at the time of the filing of the draft plans.

MR BECKETT: Or at the time of registration.

MR JOY: Well some time I think before the services are installed. (reads section again) Well now the only other thing is the question of whether we should be compensated....

MR SINGER: Just before you leave that, the last sentence in (v) (reads) That is what the section presently provides- for public purposes yes instead of for parks.

MR JOY: The section reads as follows: "Where the land.....for public purposes, the Minister may authorize in lieu of a conveyance for public purposes.....a payment to the municipality of a sum not exceeding the value of 5% of the land included in the subdivision. It doesnt say they have to hold it for public purposes.

MR SINGER: But that money cannot be presently spent without the consent of the Minister, and the Minister will not

allow its expenditure except for the purpose of acquiring more public lands, usually park lands. I have argued for some time it should be allowed for the use of the development of these lands. Some of the municipalities have all the land they need and they have dollars piling up; they don't want to buy any more land and they would like to use the money for the development of the land they now have.

MR JOY: The other section, we thought we should point out that we are not compensated now for land taken for the widening of arterial roads, or even highways. Now if I am trying to develop some land through which a main road goes, the usual requirement is that I dedicate a great strip on each side with no compensation. We agree in some cases the road needs to be widened to handle the traffic with in the development, but surely if we're going to provide for widening of highways, we should be compensated as you would ordinarily be under the Highway Act. Well that's all the submission, Gentlemen; thank you. very much for your attention and courtesy.

MR BECKETT: Mr Joy, the Committee appreciates your efforts and your Brief will be very important to the Committee. We will take it into consideration, and if at any time you have further Briefs or suggestions, send them on to us. Thank you.

MR JOY: Thank you very much.

LEGISLATIVE ASSEMBLY OF ONTARIO
 MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 MAY 24th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

Mr Peter White, Q.C.
 Mr J.M. McAvity
 Mr H.W. Howlett
 Mr H.A.S. Fraser
 Mr M.V. Lacey
 Mr J. Starr
 Mr W.T. West
 Mr Ed.L. Harris
 Mr J.C. Connell
 Mr R.S. Davies

PRESENTATION:

BRIEF - ASSOCIATION OF CANADIAN DISTILLERS

ASSOCIATION OF CANADIAN DISTILLERSHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT:

all right, Gentlemen, let's go; would you, Mr White like to introduce to this Committee, all the gentlemen who are here.

MR WHITE:

Mr Chairman, Members of the Committee, my name is Peter White and I appear as Counsel for the Association of Canadian Distillers. We have here with us, and this departs, Mrs Rowan, from the list which I previously furnished to a degree which I will indicate. The spokesman for the Association, apart from myself, is Mr J M McAvity, who is Chairman of the House of Seagram; and who is also President of the Association of Canadian Distillers; Mr H.W. Howlett, Vice-President of Corby's Distillery; Mr Ed L Harris, Eastern Manager of Alberta Distillers; Mr H A S Fraser, Executive Director of the Association. Changes from the original list but present are the following: M Y Lacey, Vice-President of L J McGuinness; Jack Starr, Controller of W & A Gilbey Ltd; Mr W.T. West, Plant Manager of Gooderham & Worts Mr J C Connell, Ontario Manager of Hiram Walker & Sons Ltd and R.S. Davies, Attorney; I should have known; we were together at law school and I apologize. Mr Daview is Attorney for the House of Seagram. Now, Gentlemen, I understand from your Chairman that this written Brief has been read, and therefore I would propose insulting neither of us by reading it, but it may be-in fact I hope that there are- questions you may direct to me; and I propose to pick out several highlights only which may merit some particular attention, although they are mentioned in the Brief itself. In addition to that, I should point out, that Mr McAvity will be making some similar comment on the Association Brief which will supplement the Brief of which I am the author. Now Gentlemen, on Page 2 of the Brief, I put before you the proposition that the method of classifications in this business assessment is completely unsatisfactory in its present form. I may say in that connection that I've consulted both with the Assoc. of Assessing Officers and the Assoc. of Mayors and Reeves; I've spent a good deal of time with Mr Gray of Metro Toronto, a recognized authority on this subject, in

all of those places, I have found complete agreement on that as a proposition. We say further in our Brief, and I submit that our Brief backs us up, that that system of classification is such a hodge podge, is such a collection of points of pressure over the half century or so that it results in something which is completely inequitable to the industry which I represent here today. In addition to that, and as part of the general proposition of that system of classification as completely unsatisfactory, I ask the rhetorical question: Why should hotels be assessed of the 25% of their assessed value while the rooming house is not assessed at all for business purposes? They perform a substantially function, yet the one which is a recognized business and is sold from day to day; dealt in a recognized business, has no business assessment whatsoever. You run into another example of this in connection with holding companies or sales organizations, which are options or subsidiaries of parent organizations; and where they in fact, on the assessment rolls today are assessed at completely different rates for business tax purposes. These are two, I submit, which are completely illogical, inequitable, and any reason that might have existed for it, has long since passed away. Now on page 3, para 3; I mention that the the assessing officers, the working staff, who are going around trying to produce these assessment rolls, he's working under a considerable handicap, and he's wasting a very great deal of the tax payer's time, by trying to fit a particular business into a particular slot, because of this massive compilation of various categories of types of business and the application of different percentages to the assessed value of those premises occupied by those businesses; and this results in two things, one, a lack of consistency of appraisal. I'm sure if you gentlemen take the time to consult with Mr Gray, you will find actual instances of similar businesses, identical businesses being assessed at a different rate for business tax purposes, and this is not the exception, I submit. So there is not only a lack of consistency, there is coupled with that, a waste of a very great deal of time on the part of municipal employees who are trying to make this completely illogical assessment system work in

practice. Now to go over to page 4, one of our themes, and something we are commending to the serious attention of this Committee, is that this industry, the distilling industry, is today part of the legitimate manufacturing complex of this country; it is in no sense different from any other manufacturer, from the point of view of the premises it occupies; the products which it uses and transforms into the products which it sells; it makes no excessive demand of any nature on the municipal system, or on the provincial system-in fact I will have something to say of its contribution to the provincial system in a moment or two. While in the last century and possibly carrying over to the beginning of this century, where the old time movies, some of us perhaps saw children where they were wrestling daddy out of a saloon, or something of that kind-those have disappeared into the discard in our submission. And if this industry was ever an illegitimate child- it has been treated as an illegitimate child- very harshly indeed over many years, that no longer obtains as a position today. Now I want to emphasize this, there are 12 distillers in Ontario today, employing some 2200 men and women; they have a pretty strong union because salaries and wages amount to \$10 million a year. I read an article in the Financial Post today which stated that whichever government is returned on June 18th, the first job they've got to do is provide some kind of incentive for industry at large...profit incentive in order to provide employment, to build up our trade balance and so on. It is our earnest submission to you, Gentlemen, that at the provincial level the same type of problem concerns and I'm sure I would be remiss if I didn't remark this industry is quite aware of the concern on the part of all Members of all the Houses of all Legislative Assemblies in this country, with unemployment, and with such things that can be done to alleviate those conditions. Now on page 5, I referred a moment ago to something I would have to say to the Provincial Government and the contribution that this industry makes. In para 2, you will notice that the gross profit (reads page 5, para 2) I took the trouble this morning to get the comparable figures for 1961 which is interesting; it is \$70, 772,000; and I am advised by the Controller that there

is no substantial variation in the percentage, that is, the 81.9%. Now over on page 7, (reads para 7, (1) and there is on page 8 a recommendation of a flat rate for this type of tax for all manufacturers. Now that recommendation was adopted in one of the Maritime jurisdictions as appears in the Brief. I may say that in theory, in discussion both with Mr Gray and with the Assoc. of Assessing Officers and the Assoc. of Mayors and Reeves, with all of whom I have had very lengthy discussions, from the logical point of view as distinct from possibly political pressure groups and things of that nature, the logical point of view is the one flat rate is the answer, both from the point of view of cutting out unnecessary work in assessing and from the point of view of ease and cutting down expense in administration.

MR BECKETT: Just there, Mr White, when you say on page 8 of a flat rate, would you say today that a flat rate would be workable?

MR WHITE: Let me say this, that perhaps what my view is would not be quite so significant as that of Mr Gray or other people who are expert in their field and are concerned. We have in point of fact, made a recommendation, and we have submitted in our Brief two alternative types of section which would cover the situation; but I see absolutely no reason, either in practice or in theory, why the flat rate for all manufacturers could not be introduced and be a part of a flat rate of business tax to all types of businesses; or be a part of the simplification of the system of classifications which exists now. In other words, I say two things, whether you make a flat rate for business assessment for all types of businesses; or whether you make a flat rate for all manufacturers, then we should fit in under one or the other. And I see no reason, either practical or otherwise, why a flat rate for all manufacturers could not be introduced at this time. I can see many reasons why it should be introduced.

MR BECKETT: Any questions this far? Proceed, Mr White.

MR WHITE: Thank you, Mr Chairman. It makes absolutely no sense from the point of view of this Association, and this is one of our submissions, why for example, a distiller pays on the rate

of 150% of assessed value, a brewer 75%, I believe the native wine industry is some slightly different figure. Logically, that is difficult to justify at best. I must say that part of our reason for thumping on this theme of simplification, why should a wholesale merchant, for example, pay 75% as against 25% for a retail merchant; while a department store comes in between at 50%?

MR EVANS: Mr Chairman, this 150% that has been mentioned, is there any reason why it was set up that way?

MR MORROW: It was a lucrative business at that time.

MR WHITE: I think perhaps Mr Morrow has put his finger on it, Mr Evans; it was regarded as a lucrative industry; it wasn't stringently controlled at the time this 150% provision was introduced; nor was it controlled in anything like that degree until you came along in the 1918-19 area.

MR SINGER: It wasn't considered to be a very nice business at one time, and the government was making it as difficult to do business as was possible.

MR WHITE: I don't know whether they were trying to make it as difficult to do business as possible, Mr Singer, or whether they were saying, this is a business that nobody likes very much and we might as well tax it for everything we can; but in my humble submission, that issue has long since disappeared. Does that answer your question?

MR BECKETT: The point, Mr White, on this 150%-there is nobody near you at all-there's nobody even 100%. (joke laughter) There must have been other lucrative businesses though when they arrived at 150%.

MR WHITE: What I was trying to indicate, and no doubt I was wrong in approaching it in a facetious manner, was I don't think there is any doubt that this business was, in the early part of this century, regarded as something much less than socially acceptable. It was regarded as a problem and was held up to the public continually in contempt, and it was milked for everything it could be milked for. This is what we want to stop, because the ratio has long since disappeared. Mr McAvity, who is spokesman for the industry, will have obser-

vations about the return on investment compared with sales dollar as compared with many other industries and will give the Committee some very interesting facts on that. Now I'm skipping over these other points; they are valid points but I don't propose to take your time on them unnecessarily. We suggest two methods of handling this whole matter; to simplify the business assessment, to reduce the cost to the municipality, to make a more workable statute, and to remove the existing inequities. Logically the flat for all has been commended. It was recommended by a Royal Commission in Ontario as far back as 1902, It is in use now in Vancouver, New Westminster, Calgary, most of the cities and towns in Quebec, and in main cities of the Atlantic Provinces. However, as a second alternative, because we realize that practical politicians expect to be returned at election time, and that is, several broad general classifications, which would go part way at least towards recognizing a logical principle which we set out as the ultimate; and I record that in our respectful submission, all manufacturers including, distillers, brewers, native wine manufacturers would be in the same classification and tax bracket. Now on page 11 of the Brief, para 10 (reads) "That standardization.....any other benefits." page 12, line 2) Gentlemen, a question I was asked in appearing before a prior Committee was:- How are you going to replace such revenue that may be lost to the municipality that might be concerned? Somebody will say Corbyville-in Corbyville, the corby distillery has been there for a long time; it's one of the mainstays of the assessment and taxation structure of this municipality, and how are you going to replace that? And the same thing might be said about a plant, say at Waterloo, or a plant at Amherstburg or Welkerville, and how are you going to replace that revenue? Mr Chairman, may I say this; you've got two ways of affecting your balance sheet or your operating statement, one is to reduce expenditures and the other is to increase the gross; or to maintain the gross and decrease the expenditure. And I commend to this committee, bearing in mind that this province supports municipalities very extensively by subsidy throughout every year that would make good sense to show the municipality a way and a means of reducing their expenditure

so that their budget would extend further than it does. Now I see by Mr Singer's face that he doesn't think this would be palatable, but it will inevitably make good sense to the voters in this province; it will inevitably make good sense to those who ultimately pay the shot for the municipality and for the province.

MR BECKETT: Just right there, you make that statement but do you follow up and say how that may be accomplished?

MR WHITE: We've said it in the Brief- at length; that this will reduce the actual cost of the administration, the book keeping, keeping track of such...

MR BECKETT: I appreciate that, but in order for the municipalities to make up for what they've lost...what they're going to lose-how are you going to make it up? And you say, reduce their costs..of administration.

MR WHITE: That's one element; another element is, and we've made this suggestion, that there are certain areas where people are engaging in business and paying no business tax. Now I mentioned rooming house keepers, apartment house-most of those are, as Mr Songer would know, are incorporated into single purpose companies with the object of developing an apartment and renting it, in other words, a commercial proposition on a given location. In fact they've done that for tax reasons as most of us would know. They're in business-I see no reason why, considering the services that they demand from the municipality, why they should not pay business tax. It might not be a popular move with apartment house owners, but sometime, somebody has to inject a little logic into this system of municipal assessment, and business tax is part of it. I may say that those principles and the admission of this would accomplish substantial savings in the cost of administration of the municipality is common ground as Mr Gray and the Associations that I have mentioned to you.

MR SINGER: You're not suggesting though that the administrative saving is going to compensate for the tax loss.

MR WHITE: Not in its entirety, perhaps; but let me say this, Mr Chairman, and through you to Mr Singer, this is only

one very minor facet of the problems and the complications of the present system of assessment; so while we are asking that it apply to manufacturers, and while this would accomplish manifest savings, the broad principles which we are expounding and submitting to this Committee, if they were adopted in their entirety, there would be further and very substantial savings in every municipality.

MR MORROW: While we're on the point of savings, I would like to ask Mr White this question; your industry is really objecting to the principle of the inequity of this rather than on the dollars and cents, that would be my impression.

MR WHITE: Let's be realistic; we will accept that position, Mr Morrow, but on the other hand we're also interested in dollars. May I say in extension of what Mr Singer has said, Mr Chairman, that both the associations I referred to indicated approval of the broad principles which we have indicated; and Mr Chater has stated in correspondence: It seems to me lack of uniformity and lack of standardization of the fundamental problem confronting business and the function of government; those on the technical of the Ontario Government are quite conscious of this fact, and with the permission of their respective Ministers are endeavouring to do something about it. That in brief and any questions that might be asked of me, comprises the special comments that I propose making to this Committee today, Mr Chairman, with this exception, that everybody recognizes the fact that this Committee is here today because everybody recognizes that this whole problem of municipal, provincial and dominion taxation is something that requires revision; that requires somebody, apart from the hysterical, from the grounds which have been clouded in obscurity in the past, to try and reach some order out of chaos. Now insofar as our particular theme is concerned, Mr Chairman, Gentlemen, it is simply this: Rome wasn't built in a day, but one day could do a very great deal to cure this business assessment, and that's why we're here. Now I have submitted two alternatives of provision which would replace Section 9 of the Act as it now reads; one is on the flat rate, the other is several broad classifications.

MR EVANS: In other words, Mr White, would you consider gross sales as a tax base?

MR WHITE: No, I've always found that doing as little violence as possible is a sound principle in these matters, and here is the simple syllogism we are putting to this Committee, that is, while we recognize that you're not going to cure everything all at once, if you just make those changes in the Assessment Act, those will produce the results that we submit they will produce. To reframe the entire Act, then we don't think we can offer too much in the way of suggestion.

MR EVANS: I have often wondered what is so wrong with having the business tax based on sales instead of on property.

MR WHITE: I'm only a working lawyer (laughter) I think I touched on it on page 10, para 9 (reads) "It has been... ..is desirable." (page 11, line 1) And again by Dr Petrie on page 7.

MR SINGER: When you talk about gross sales, it's something in the form of an income tax. There used to be a municipal income tax about 30 years ago.

MR BECKETT: The proposition always comes up as far as the Members go:- How is the municipality going to be re-embursed if they're going to lose the business assessment?

MR WHITE: I've offered three suggestions, one, hotels, apartment houses, lodging and rooming houses. Now those exist in every municipality.

MR BECKETT: Then somebody else is going to be taxed to make it up?

MR WHITE: Somebody who should be taxed now in so far as business assessment is concerned.

MR BECKETT: Then there'd be the other alternative of bringing up the bulk of the people who are assessed for 25% or 35% bringing them up to a level, say 50%.

MR EVANS: Mr Chairman, I can't see how a business can be assessed properly on property value; I think it has to be on the basis sales; because a man can do as much business in a poor pro-

erty as he can in a new property, and still it costs him more money to build a new place, and he may do less business in the new place than he did in the old place, yet he pays more business tax. I don't think that's sensible at all.

MR BECKETT: If you're going to take it from that angle, Mr Evans, a tenant has no voice on the assessment of the building rate, and yet his business assessment is based on that assessment.

MR EVANS: This is just an illustration; I was burned out in 1959, so I built a new building, then my business assessment is three times what it was, and still I'm not doing any more business. It seems to me that isn't sensible.

MR MORROW: We had that out with Stone, Mr Chairman and he gave us to understand they couldn't come up with any better measuring stick at the present time, or yardstick.

MR SINGER: Well in all this discussion we've had about business tax, and I think there were more Briefs submitted complaining on various aspects of this tax than anything else, I have yet to see anybody come forward, including the Department, and Mr Carr was here, who defended the present system.

MR BECKETT: No, but nobody has come up with any alternative, with all due respect for what Mr White has said about the savings to municipalities in the cost of administration...

MR SINGER: I'm not overly impressed with that. I may agree with the main points in this Brief, that this is illogical and inequitable, and I can see no reason why the distilleries should be picked out of the hat and assessed 150%-this doesn't make sense.

MR EVANS: This idea of in a small town, the clerk and everybody would know how much business were doing- well I couldn't care less, Mr Chairman. (laughter)

MR BECKETT: On the present method, it is not personal.

MR EVANS: I'll go along with Mr Singer- I think this 150% is like something out of a hat- 150% because it was done in 1905 or something like that, but I still say there must be another way of doing it- instead of on a property basis. I can't see that.

MR WHITE:

If I might speak to that, I think I might provide the answer. If you could persuade the Liquor Control Board in the Province to reduce the price to the consumer and increase the sales of the product, instead of showing \$70 million gross profit for the Province, you'd show...well, it's a saleable product as far as the province is concerned. And all fooling aside, between the municipality, the province and the dominion, all these gentlemen you see here today wind up by being something like 10% partners in their own businesses. (jokes and chit chat)

MR COWLING:

Now Art says it should be adjusted but if you were the Mayor of Bradford, and if the Province came along and said to you in the distilling business in your municipality, we're going to cut the business assessment to 75% from 150%, what would you say as the Mayor of the Council to the Government of the Province of Ontario?

MR EVANS:

I'd probably say change the government.

MR COWLING:

But we don't want that done.

MR WHITE:

I think this problem could be posed in another way without doing violence to either of the Members who have just spoken, and that is simply this:- If it makes sense, if it is logical to introduce a flat rate of business assessment for all the manufacturers, then why take the hard way of introducing this thing- why not take the sensible, the logical way of introducing it, to say just that. But if some municipality would say: I have a distillery in my municipality, ask him why the distiller is selected to pay 150% of assessed value, and he can't justify that logically, historically or any other way.

MR COWLING:

I know it's difficult and there's no reason why we should discriminate against the distillers-I appreciate that. But take Corbyville, for example; and the province says, we're going to put the business assessment on the basis of say 75%, so you drop them from 150% to 75%, what about the Council of Corbyville; how are they going to raise the other 75%? Let's have an answer on that one.

MR WHITE:

I would say this, we have proposed one

alternative, that is to bring in some of these things that are businesses, and which are making demands upon municipalities and not paying anything in the way of business assessment. That's one.

MR COWLING: Does that apply in Corbyville?

MR WHITE: I'm sure as I go across this province, you see survey gangs and so on; the chap who looks after my summer cottage keeps 16 boarders all winter; and I'm sure this will be true of Corbyville or any other place that service construction gangs, highway gangs, survey crews.

MR SINGER: I don't think you could expect any government, no matter what its complexion may be to enact legislation merely for the good of the distillers, but I don't think that's the issue. I think the issue is the proper and equitable use of business assessment, and I think it's even deeper than equalizing it on a fixed level; because there's another real disease that affects municipalities, and that is this fantastic competition they enter into, one with the other to attract new industry. It may be that the province should take all the business tax, and by doing that be able to suggest to industry locate in certain sections- eliminate this straight competition between municipalities and pass it out in grants- that sort of thing.

MR COWLING: You said you were only concerned with distilleries; now you say there'd have to be a broad base there- it isn't something that's going to benefit the distillers only, you said. But that's not right; you're concerned with what's going to happen to the distillers- that's why we're here- never mind about the other industries, what can we do for you to alleviate the situation; am I right?

MR WHITE: No. Actually attributing certain things to me, which are not contained in our Brief nor in our minds, because our prime purpose in coming here today is to say this; we want to say these things. We're being singled out and there's a matter of inequity, Two, if you take on at the business assessment provision as it now stands, you've got to be hit by the illogical nature of it, by its inadequacy and by its complexity as it now stands; so that altogether apart from an inequity and uneven instance of taxation upon a

legitimate manufacturer, you arrive at the third proposition, that is that logically, there is absolutely no justification for not correcting an obviously undesirable situation in regard to the taxation as it now stands.

MR BECKETT: Mr White, we compiled some figures in connection with business assessment; for your information, Mrs Rowan might just read some.

MRS ROWAN: These figures are built up on the returns from 349 municipalities- the returns received. They are broken down under the pages used in the different categories. Under the 150%, we had returns stating there were 36 assessments-we may not have returns from all the municipalities that had distilleries in them.

MR WHITE: I am astonished Mr Chairman- I don't want to interrupt your very attractive secretary, but there are only 12 members in this Association- distillers in this province.

MRS. ROWAN: Do you have two or more properties?
(discussion re warehouses and office buildings)

And the business tax levy amounted to \$640,000- total.

MR WHITE: So we're not talking about ball park figures, Mr Chairman. (further cross talk) I can give you figures akin to Mrs Rowan's. On the Waterloo plant of Seagrams, for example, the land and buildings are assessed for \$1,577,450, and in 1960, the tax rate there was 48 mills, with was \$75,717.60 of tax; no for business tax, predicated on 150%, the assessed value of the distilling premises, and I make that distinction, that reflected a figure of \$2,366,175, and at that mill rate, the business tax was \$113,576.40. If you had a 75% rate, the same as applied to brewers, there would be a reduction of \$56,700 odd. Comparable for the Amherstburg plant which is an associated company- business tax paid in 1960 was \$42,418, which is a \$21,209 differential if it were cut back to 75%. So we're not talking about huge figures at any time.

MR SINGER: It would seem as if we're talking about \$300,000 across the whole province.

MR WHITE: As far as industrial alcohol is concerned

we're treated just like everybody else who manufactures at the 60% level. I think this is true of Hiram Walker's G & W plant as I recall the situation. A good part of the plant is devoted to industrial alcohol. So that would account for some difference in figures.

(chit chat re assessment roll numbers)

MR BECKETT: Would you read the rest of the figures?

MRS ROWAN: The 60% category produces 43.3% of the taxes; 150% produces 1.1% of the total tax reported.

MR EVANS: I just wondered if Mr White would have any objection if business tax was based on sales.

MR WHITE: Speaking for the industry, and I'm sure Mr McAvity as President will correct me if I'm wrong, as long as we're treated the same as any legitimate manufacturer, we have no beef as an association nor as an industry.

MR EVANS: So that if all business tax were based on sales you'd be agreeable to that.

MR WHITE: Yes. That's all we ask. We'd like to be legitimized after I think Hiram Walker has the figure of 1832.

MR BECKETT: Then if this Committee accomplishes something worthy of consideration...

MR WHITE: We'd be duly grateful, Mr Chairman.

MR BECKETT: Thank you Mr White; we appreciate your efforts.

MR MCAVITY: Mr Chairman, on behalf of my colleagues in the industry, and I might say our Association represents 100% of the Ontario distillers and almost all in Canada, the only exception being two new ones in the west, may I express our thanks for the opportunity to appear, and I think at this point the quickest thing for me to do would be to read just a part of the shorter of the two Briefs which you received only this week. I'll just cover the highlights and a few points and answer some questions. Insofar as the economic importance of the industry is concerned, I would like at the top of page 2 to emphasize the capital expansion plans that have been undertaken in this past 10 years and which are now on the drafting board, and in some cases a little further. The industry is unique in many

respects among manufacturing industries in that we produce goods today that are going to be sold on the average, five years from now; and we need an awful lot more bricks and mortar, and awful lot more storage space than most industries; for this reason, we feel that it's important for us to have a better than average return on capital investment, like the oil industry expects and does get and most chemicals. Now I emphasize this, because this is significant here in Ontario. You could visit any one of several distilleries in Ontario today, compare it with five years ago and go back five years from now and you would see a tremendous expansion in this industry; basically it is all put there by this increase in our export business. But at home it looks one-third gain between now and 1970 based on per capita expansion, or about 33 1/3%. We likewise have to have inventories which means warehousing and so forth. Emphasizing that Ontario is feeling the brunt of this and the major benefit of this new capital expansion, which is so important to you and I might say to us, in terms of employment of people. Because you well realize, especially those who come from Ontario towns, the manufacturer is just as much concerned with the employment and happiness of people as the alderman, the reeve and the Mayors are. Basically the three reasons why we believe that we are, as normal manufacturers being discriminated against when it comes to this differential in the assessment. It should be, we say in our short Brief, the same business tax on the same basis as other manufacturing industries. The first one is that we neither get nor receive nor expect any service or benefit on any other basis than that which every manufacturer gets, the manufacturer of boots and shoes or furniture or anything else. We should be paying 60% instead of 150%. The taxes on our two plants, one in Harrisburg and one in Waterloo comes to \$93,800; in the town of Waterloo, the mill rate at the moment is 48 mills; on business tax, we would be saving if we were right down to the same as Snider Furniture, we would be reducing Waterloo's revenue by \$45,000. It seems to me that in addition to those ways in which Mr White has indicated that revenue could be found by the town of Waterloo, an increase of a very small amount across the board for every

for every other business tax payer would very soon swallow up the \$45,000 . Everybody in manufacturing is accustomed to increases at that level, cost of material, cost of labour, cost of taxation, federal and provincial, and as well school taxes as well in many areas. I manufacturers were told that starting as such and such a date, the mill rate was going up to thus and so, this, I think would be the answer to Amhurstburg for us and to Corbyville for Mr Howard's firm; when there are no industries, the mill rate will have to go up, and the discriminations would be eliminated.

MR BECKETT: If you could accomplish that much.

MR MCAVITY: Now right now, Amhurstbrug is charging us 44 mills and Waterloo 48; if the assessment of 150% were to be put down to the same rate as the manufacturer down the street from us, it would be only \$16,700; So I dont think that problem of what is the municipality going to do is quite as serious as perhaps it was indicated earlier. Actually it is very little guide unless you know the basis of assessment.

MR BECKETT: No but the man on the street, he reads about the mill rate going up.

MR COWLING: It's very very good information, Mr Chairman. Mr McAvity says that in the Town of Amhurstburg, it would make a difference of \$16,000, and \$16,000 spread over the other industry wouldnt amount to much, and that's good stuff.

MR MAAVITY: I was very pleased, Mr Chairman to note also the figures that Mrs. Rowan gave that in that 60% group, which I believe is largely the manufacturing industry of Ontario, 43.3%; so if you were to cut the 1.1% of taxation received from our group, a little over 1/4 of 1% of total taxes has to be redeemed somehow, spread over 12 municipalities. So much then for point No. 1, sir, our reason why we think we should be treated as other manufacturers. We dont expect to get or receive any benefits or services for paying this, we think ridiculously high rate. I'd just like to refer to comments made if I may, Mr Chairman. Mr Singer put his finger on it, and Mr Morrow going back to 1904, profitability is one answer which I'll leave for

the moment. Discrimination was the thing to do. We have searched our company records and our company has been going since 1867 in Waterloo, but unfortunately records have not been too well kept or preserved through the years; but clearly the attitude of people then, when you had privately owned distilleries-private companies- private families-it's a far different situation today where you have over 60,000 shareholders of distilling companies living in Canada, and just about half are resident in Ontario; and that figure is growing, I may add, very rapidly. 80% of our shares are owned in Canada in our own case, and 80% of the shareholders are Canadians. I'm not sure about the other companies, but I think it's even higher residents in Canada. The second reason why, Sir, I'll call it profitability. We haven't been able to get too much out of our books going back to 1904. We have the retail prices of the LCBO when you could buy a bottle of whiskey for 75¢, and I'm sure we've all heard this story before. But suffice it to say that we have been, I would say fighting a battle in government circles at Ottawa and throughout the Provincial Liquor Boards and Treasuries for the past ten to fifteen years in this post war period- struggling if you like to stop this we call it down grading of everything in our business except retail prices. We have had as many as 10-12 retail price increases in some provinces. In the last five years, there has been four or five; prices have gone up again in this province recently; sales taxes have been added. In some cases in some provinces, sales taxes have been increased. The sum total of all these price increases has caused a steady decline in the earnings of our companies in Canada from our domestic operations, and I want to emphasize this, because I'll return to exports and consolidated earnings in a moment. And there are four basic reasons given on page 4 (reads para 2, line 1) There has been a steady.....pension fund." (page 5, line 3)

MR SINGER: Are the liquor prices higher-the sale prices higher in British Columbia?

MR MCNAVITY: In B.C. their mark-up percentage is surpassed in Alberta and New Brunswick, but they increased the prices

so sharply as to annoy the public; and there has been a veritable switch to beer and to wine; the same applies also in the last year in Saskatchewan. There's no satisfaction to be derived from these figures by the Temperance or the Alcoholism Research people, because the consumption of absolute alcohol, the gain has been 10.8 which is very close to the national average gain of the last five years across Canada; and the people who suffer are the distilling industry and the provincial treasury, because they made less money out of the sale of spirits and beer and wine; this is a factor which in these last ten years particularly, contributed to this decline in profit of the distilling companies. We have also been suffering from increased costs in both materials and labour. We have been negotiating with a very good union every two or three years and it is costing us money, the same as it's costing XYZ Manufacturing Co. of every industry. I might point out that our materials are very important to this province of Ontario; a very large percentage of our 9.3 million dollars of glass containers, for example come from the glass plants of this Province; corrugated boxes, a lot of grain; in fact we do all the grain buying in this province that we can

MR BECKETT: What % of grain do you buy?

MR MCAVITY: Grain, Sir, I'm sorry- we're buying

grain through grain brokers; it comes in to us in ship loads and we can't always tell the source. (chit chat re best grain for whiskey) the price of grain has remained relatively constant, but the prices of everything else has gone up to strain this break even point. Finally this Liquor Control Board mark up system has literally frozen the distiller in his selling prices since World War 2. I would say that each of the companies represented here have had on the average an increase of between 10%-18% by nibbling here and there since the war.

MR MORROW: What is your return on the sales dollar?

MR MCAVITY: We haven't got a figure for the industry

I can tell you this for a group of companies show a return, just about on the average of all Canada around that 4 $\frac{1}{2}$ %-5%, but I can tell you that on the basis of dollar invested, which to us is more important,

and on that I would like to submit this paper; it is a report from the Conference Board of the States, dated May of this year. I've tried to get comparable figures for Canada- I have been trying for two years. I'm told these figures are not available because many companies do not publish this information. Here though in the States, we feel it is a pretty clear indication of the same situation here, because manufacturing process is the same in the distilling industry and in tobacco, and cosmetics and in other industries named here. I'd like to show that the distilling companies in the states were well below the average on this chart when it comes to "% profit after taxes" and "% return on net assets". 3557 leading corporations reporting.

% profit after taxes - all industries	- 8.7%	distillers -	7.5%
% sales " " " "	5.6%	" "	3.7%

Now they have in the States the situation that some states are not as we have- under a state or LCB; the remaining states are all open markets, except one or two dry, wholesalers, retailers and a lot of price cutting and that sort of competition. It's hard for me to say that this is exactly comparable to our picture; but it is an indication, and I'm still trying to get information for some people in Ottawa who are interested in this also.

MR SINGER: It seems to me that the value of your shares in the market have done anything but decrease.

MR MCAVITY: The three largest-put it that way- corporations in this industry in Canada are international in scope, two of them have head offices in Canada and are largely owned in Canada by Canadians-Hiram Walker, G & W and Seagram; the third is Canadian Shennley who are a subsidiary of an American Company with plants in Montreal and the west coast. These three companies do not break down statements by companies; they submit consolidated returns to shareholders of world wide operations. I can speak only for my own corporation, but it is typical because they all operate in a similar fashion to a large extent. We have hundreds of millions of dollars invested in plant and equipment outside Canada. I can speak for my own company; we have 16 distilleries in the USA and an office building in New York City- a total investment of several hundreds of millions of dollars in the USA.

These are fully owned by subsidiary companies reporting to our Canadian head office. In addition to the USA, we have huge investment in other parts of Europe-Hiram Walker and ourselves- in Scotland we have distilleries; in the West Indies and the various Carribean countries we have investments in huge rum warehousing and plants. Now when you say that our shares are going up, you are talking like the man on the street and this is what everybody thinks; and we have been trying to cope with this public relations problem at home, and Walkers have too.

MR SINGER: I dont find this a horrible thing.
(chit chat here re income and shares)

MR MCAVITY: Our statement is from world wide interests; it was only this year we shoed a separate figure for our Scottish operation, for example; it has always been shown as other income but the \$2 million income came from our Scottish distilleries.

MR EVANS: How does business tax compare, say with the USA or the countries where you operate with Ontario?

MR MCAVITY: I'm afraid I couldnt answer that question. We have 16 plants in the States alone-I'm not familiar with it.

MR BECKETT: As far as we've been able to ascertain, business tax doesnt exist.

MR MCAVITY: It doesnt in most places; but I cant say for sure it doesnt in all of our operations. Well to wind up my answer to you, Mr Chairman, to Mr Singer's question, this business of the public statements of our companies showing good return of dividends, I refer to three Canadian firms who have no or very little export business. Melchior's Distillers, according to their own public statements to shareholders showed less than 3½% after tax profits, as a %age of investment. They'd be far better off if they closed their doors and bought Ontario Government Bonds.

MR MCNEIL: How does the business tax we have in Ontario compare with the other Provinces?

MR MCAVITY: I'd like Mr Davies who is our legal expert on that to talk about Montreal. Are there business taxes in the other provinces?

MR DAVILS: Well in Quebec our taxes are based on

the estimated annual rental value which is arbitrarily taken as a percentage of the total property assessment. They don't use a mill rate down there, they use so much on each dollar figure or up to a dollar on each hundred dollars of assessment. It is very hard to make a comparison because going right down the line to the whole basis of property valuation, and the question of municipal services provided. Those are all relevant as between the provinces- so I wouldn't want to go out on a limb and say that one is lower or higher than the other.

MR MCAVITY:

Well further Sir, I would just like to repeat what I have tried to say in this six-page Brief, the figures in the back, I think, speak for themselves and if there are any questions, I'd be happy to attempt to answer them; but as indicated here I think it would be beneficial if we could possibly have your Committee visit a distillery to see just what goes on inside- I'm quite serious with this- it wouldn't be a party. We are taking through parties of school teachers- we had a group of 150 of all denominations of school teachers- and I suppose there are probably between 10,000-15,000 visiting distilleries across Canada, who are having their eyes opened that it is a perfectly normal thing- there is nothing mysterious or shrouded anywhere. And you could eat off the floor in most places. We are buying materials, processing, packaging, we keep a lot of people in work and I hope they have smiles on their faces, the goods go out the door, and we send invoices and get paid for them. We don't get anything like the public think we get paid, but this is something else again. I would like to wind up by saying how much we appreciated the opportunity; I would like to also state we'd be very happy to be asked any questions either now or at a later date and to reappear, if it's indicated to submit any data, any information at all, any facts or figures that we may be able to supply. Thank you very much.

MR BECKETT:

Mr President, frankly you will reappear after we have completed our survey and arrive at some conclusions.

MR WHITE:

I might say to you, Mr Chairman and to the Committee that if there is any information I personally could get I would be delighted and perhaps you'd use me as a clearing for information of any kind and I can get in touch with Mr Fraser. If it would

not be amiss, there's one element in this operation to which specific reference should have been made, and if these gentlemen would care to take advantage of the offer to see a distillery, and that can readily be arranged; but when you do and if you do, would you please this as a submission, that part of the operation of every distillery comprises keg or barrel storage, the only difference between that keg or barrel storage and any commercial warehouse which is storing, that the barrels happen to contain liquor, and 150% is paid by our industry in taxes; the investment in keg and barrel storage is not only a vital part of this industry because of government requirements regarding age of liquor is concerned, yet this storage is no different than any other particular storage. We are subjected to a business assessment on a basis of 150%, and if you go there, you'll see there is no particular difference from any other company with commercial storage. This is a legitimate Canadian factory, and if it isn't legitimate, the Government is living in sin too, Gentlemen. (laughter) Now if you can make sense out of the 150% assessment, then it hasn't made sense to anyone else.

MR BECKETT: How does the storage compare with brewery storage?

MR WHITE: Substantially the same-they don't have to age it as long-actually with modern brewing concepts, they have substantially reduced the storage period. In fact it's almost a continuous process; today the brewing is rather akin to the developments in meat packing industry which comes in and is processed and is on the shelf in the store -the same thing has happened to the brewing industry but within certain limits.

MR COWLING: Well I think one of the significant things is what Mr McAvity said, in most areas where there are distilleries, in most cases it wouldn't make any material difference to them but a slight increase and to bring everybody into line- that sounded reasonable to me.

MR MCAVITY: Manufacturers are expecting this kind of thing actually; if it doesn't happen every one or two years, I think they'd be surprised. This is the experience we've had.

MR SINGER: Nobody really expects to go down.

CHORUS: No, that's true.

MR MCAVITY: I'd like to make a comment on a point Mr Singer raised earlier-there are two things which is very difficult for us as a group to persuade a government to do, and this is a government at any level it appears; one is to give up money they are now receiving from us; the second is, to make it appear as if they, the government, are in love with distillers. We think the latter is becoming less of a problem now, public relations wise than it was even ten to twenty years ago; because of this Gallup Poll figure of 69.9 something people admit being consumers.

MR SINGER: They don't seem to be voting more in these local option polls.

MR WHITE: I can tell you the answer to that one, Mr Chairman; the people who are voting dry are very vocal and they work at it, and the other boys think that everybody is reasonable and they don't work so hard. (laughter)

MR BECKETT: Mr White, are there any other members of your committee who would like to say something?

MR DAVIES: May I answer a question? Mr Chairman. I referred back that the basis of assessment is the estimated annual rental value. In La Salle where we have our large operation, this is a very recent development and it may surprise this Committee to know that in the past up until this year, the business tax was negligible; there was a ceiling on it imposed under the Cities and Towns Act of \$3200 in the case of industries in La Salle- that was the business tax, no matter what was manufactured; and it's only recently they have introduced this ^{Page} of estimated annual rental value in line with other larger municipalities like Montreal. I didn't want to mislead you -this is a recent development- an increase in the business tax in our own locations this year.

MR BECKETT: Well thank you very much, Gentlemen. We will call on you again.



LEGISLATIVE ASSEMBLY OF ONTARIO

Select Committee on the
Municipal Act and related
Acts, Committee Room Three,
Parliament Buildings, Queen's
Park, Toronto, Ontario, June
6th and 7th, 1962.

CHAIRMAN

Hollis E. Beckett, Q.C., M.P.P.

MEMBERS

DONALD H. MORROW, M.P.P.	ALFRED H. COWLING, M.P.P.
RHEAL BELISLE, M.P.P.	THOMAS D. THOMAS, M.P.P.
RON K. McNEIL, M.P.P.	GEORGE T. GORDON, M.P.P.
ARTHUR EVANS, M.P.P.	VERNON M. SINGER, M.P.P.

MRS. H. G. ROWAN,

Secretary

J. A. TAYLOR, Esq.

Committee Counsel



SUBMISSION OF
COUNCIL OF THE COUNTY OF ONTARIO

APPEARANCES:

- | | | | | |
|----------------------|---|-----------------|---|-----------------------|
| MR. EARL DOWSWELL | - | Warden | - | County of Ontario |
| MR. CYRIL MORLEY | - | Reeve | - | Village of Pickering |
| MR. ORVEN CHAMBERS | - | Reeve | - | Township of Brock |
| MR. J. SHERMAN SCOTT | - | Reeve | - | Township of Pickering |
| MR. WM. G. MANNING | - | Clerk-Treasurer | - | County of Ontario |
| MR. JOHN BALL | - | Reeve | - | Town of Uxbridge |

THE CHAIRMAN: Gentlemen, we have a quorum. Do you want to introduce the members that are here, the members of the committee? I think each member has a list of the members of the committee and they are seated according to that.

MR. THOMAS: It is my pleasure to introduce the delegation from Ontario County presenting their brief: Mr. Earl Dowsell, Warden of Ontario County; Mr. Cyril Morley, Reeve of the Village of Pickering; Mr. Orven Chambers, Reeve, Township of Brock; Mr. J. Sherman Scott, Reeve, Township of Pickering and Mr. William G. Manning, Clerk-Treasurer, County of Ontario. There is another gentleman who I do not know.

MR. DOWSWELL: Mr. John Ball, Reeve of the Town of Uxbridge.

THE CHAIRMAN: That is added to our list. Without any further adieu would whoever is going to present your brief like to come up here?

COMMISSION OF

INVESTIGATION OF THE COUNTY OF ONTARIO

1854

MR. JOHN BALL	-	Reeve	-	Town of Exeter
WM. G. MANNING	-	Clerk-Treasurer	-	County of Ontario
MR. J. SHERMAN SCOTT	-	Reeve	-	Township of Pickering
MR. ORVIN CHAMBERS	-	Reeve	-	Township of York
LYRIL MORLEY	-	Reeve	-	Township of Pickering
EARL HOWELL	-	Reeve	-	Town of Exeter

THE CHAIRMAN: Gentlemen, we have a

sum. Do you want to introduce the members that are

here, the members of the committee? I think you

member has a list of the members of the committee and

they are seated according to that

MR. THOMAS: It is my pleasure to

introduce the delegation from Ontario County presenting

their brief: Mr. Earl Howells, Reeve of Ontario

County; Mr. Cyril Morley, Reeve of the Village of

Pickering; Mr. Orvin Chambers, Reeve, Township of

Brook; Mr. J. Sherman Scott, Reeve, Township of Pickering

and Mr. William G. Manning, Clerk-Treasurer, County

of Ontario. There is another gentleman who I do not

MR. HOWELLS: Mr. John Ball, Reeve

of the Town of Exeter.

THE CHAIRMAN: That is added to our

list. Without any further delay would whoever is

going to present your brief like to come up now?



MR. MORLEY: Thank you.

THE CHAIRMAN: That will not preclude anybody else having any words to say. Have the members of the Committee got the brief of the Ontario County?

MR. MORROW: There are extra copies on the table.

THE CHAIRMAN: Mr. Morely, if you would like to proceed any way you wish to, either read it or comment about it.

MR. MORLEY: I think, Mr. Chairman and gentlemen that the submission we make on the Assessment Act is fairly conclusive in itself, but we should perhaps take a look at the particular clause which to us as a committee of the County of Ontario causes us considerable concern. It is 93 a. (1). It says:

"The Council of a County may, with the
unanimous assent of the members thereof,

"pass a by-law appointing a county

"assessment commissioner who shall have all

"the powers, duties and privileges under

"this and every other Act of an assessor,

"an assessment commissioner on a county

"assessor in respect of the county and

"the townships, towns and villages in

"the county and who shall be deemed for

"the purpose of this and every other Act

"to be the Assessor for each of such

"local municipalities..."

Without reading our comments after that I respectfully suggest it be altered basically as, as all



1
2
3
4 you gentlemen know in the grass roots organization of
5 municipal and county governments there are no dividing
6 lines and that that one votes as he sees fit and
7 consequently the requirement of unanimous assent would
8 be an impossible thing. At least, that is the way
9 our Ontario Council operates.

10 MR. SINGER: We had it for two years.
11 We found it didn't work.

12 MR. MORLEY: I don't think it is
13 possible to do it under this -- unanimous consent.

14 MR. SINGER: It will never be.

15 MR. MORELY: We do suggest two-thirds,
16 but that is just the suggestion, a simple majority,
17 perhaps. We would like to emphasize that we may suggest
18 it as an alternative that seems fair, although we have
19 resolutions from other organizations on this very
20 question. I don't think there is any doubt, in my
21 mind, anyway, that I think this is one thing we could
22 exceed to, the two-thirds. In fact, we registered
23 our objection when the legislation was introduced.
24 Unanimous consent is out of the question because I know
25 in our own County in years gone by when I was a member
26 of that County Council there would be some objection to
27 the whole thing and you would only want one to oppose
28 it. I think the requirement of two-thirds of council
29 is a very reasonable one.

30 MR. SINGER: What would you think, Mr.
Ball?

THE CHAIRMAN: Mr. Morley.

MR. SINGER: I am sorry, what would

1
2
3 think, Mr. Morley, of the Government or the Department,
4 perhaps, being able to direct that this be done?

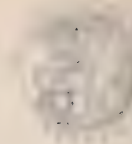
5 MR. MORLEY: Well then, Mr. Singer,
6 are you taking away the autonomy of the County?

7 MR. SINGER: That is the point. We
8 hear a great deal about local autonomy. I am not quite
9 sure what it means. It is a good thing to talk about
10 depending which direction you are going in. It means
11 all sorts of things to all sorts of people. I think
12 in bringing forward this resolution the County of
13 Ontario feels there is great benefit, I certainly see
14 great benefit to having uniform assessment, at least,
15 at the county level and approaching that there would
16 be benefits to having uniform assessment, at least, to
17 Southern Ontario. How are we going to get that without
18 something more positive?

19 MR. MORLEY: I would agree, Mr. Singer.
20 We do, but it is not unanimous by any means. I would
21 say an estimate would be 75% of the County of Ontario
22 feels that this possibly would alleviate some of the
23 difficulties. Therefore, if you take a directive order
24 how is your majority going to look?

25 MR. SINGER: I think you would get the
26 same objections in reverse.

27 MR. EVANS: I agree you would never
28 get all the municipality to be in favour of it, but I
29 think the suggestion of two-thirds is a very good idea
30 because, for example, the County of Simcoe, I think
at least two-thirds would be in favour. Certainly they
all wouldn't be.



100

think, Mr. Morley, of the Government or the people
perhaps, being able to direct that this is done?
MR. MORLEY: Well then, Mr. Speaker,

are you taking away the authority of the County?
MR. SPEAKER: That is the point, is it?

MR. MORLEY: I am not going to deal with that question.

Some what it means, it is a good thing to think about.

depending which direction you are going in. It means

all sorts of things to all sorts of people. I think

in bringing forward this resolution the County of

Ontario feels there is great need, a seriously and

great benefit to be derived and an assessment, at least,

at the county level and approving that there would

be benefited to having uniform assessment, at least, in

Southern Ontario. Now we are going to get that done.

something more positive.

MR. MORLEY: I would agree, Mr. Speaker.

We do, but it is not a serious by any means.

say an estimate would be 1% of the County's revenue.

feels that this possibly would be a very serious

difficulties. Therefore, if you take a look at the

how is your majority going to look.

MR. MORLEY: I think you would find out.

MR. MORLEY: I think you would find out.

and all the municipalities to be in favour of it.

because, for example, the County of York, I think

at least two-thirds would be in favour. Ontario as a

all wouldn't be.



1
2
3 MR. MORLEY: I think it is a good start.

4 MR. EVANS: Start in the right direction.

5 MR. COWLING: Mr. Chairman, at the

6 time the Government introduced this legislation the
7 thought was to promote the municipalities and the county
8 organizations to think along the lines of county assess-
9 ment and the appointment of a County Assessor. I don't
10 think that the Government at that time thought it would
11 have any great rush among the counties to appoint an
12 assessor but they would have an opportunity of reviewing
13 this situation and to give some thought to the matter
14 because of the fact that the legislative order was
15 implemented if they desired to do so. It hasn't brought
16 about the desired results. I will agree with you on
17 the fact that the local government should be able to
18 decide on whether they have a county assessor or not.
19 As far as the government directing they should have
20 a county assessor, I would not agree with that at all,
21 because my interpretation of local autonomy is quite
22 clear. They are not so hazy as the member at the end
23 of the table thinks.

24 MR. SINGER: It is handy to use -- solve
25 all problems.

26 THE CHAIRMAN: Mr. Cowling.

27 MR. COWLING: I would think by having
28 even a majority vote of the Council, I think you would
29 go a long way to establishing county assessors throughout
30 the province which is the end result we all want.

THE CHAIRMAN: I was going to ask Mr.

Morley: Was it discussed in the Ontario County Council?



Morley

174

1
2
3
4 MR. MORLEY: Yes, we have discussed
5 it and we submitted this brief to the Council and
6 received their approval before submission to you. I
7 couldn't say, Mr. Chairman, to answer your question
8 honestly and completely that the question of a county
9 assessor -- it wasn't put to a vote.

10 THE CHAIRMAN: I was going to ask that.
11 Are there any municipalities in the County that use a
12 county assessor?

13 MR. THOMAS: I don't think there are.

14 MR. EVANS: There is in Simcoe the
15 County Assessor.

16 MR. MORLEY: The county assessor does
17 assess for some municipalities, but not the whole.

18 THE CHAIRMAN: I didn't mean the whole.
19 How many municipalities are in the County of Ontario?

20 MR. MORLEY: Eighteen.

21 THE CHAIRMAN: How many are assessed
22 by county assessors?

23 MR. MORLEY: None. I may say, Mr.
24 Chairman, this is not only a question of county assessment
25 as such, but it also has a bearing on your high school
26 districts... There are members in the County of Ontario
27 where three municipalities enter into the high school
28 district and the basis of apportionment of cost is
29 equalized assessment. Therefore, if assessment is not
30 equalized you are in trouble.

MR. SINGER: Really rough.

THE CHAIRMAN: Why can't all municipalities
have the one assessor in order to have a come-back?

1935-36



1
2
3
4 MR. SINGER: Local autonomy, that holy
5 word.

6 THE CHAIRMAN: By arrangement?

7 MR. COWLING: You are supposed to bow
8 low.

9 MR. THOMAS: You think two-thirds of
10 the Council would be much more likely to approve
11 revision and the County Assessor would have an opportunity
12 of assessing most of the counties.

13 MR. MORLEY: Mr. Chairman, in the
14 case of the County of Ontario that would take care of
15 half of the municipalities, just in high school
16 districts at the moment. Perhaps more, I am not sure
17 of the north end.

18 MR. COWLING: Do you feel that two-
19 thirds vote would carry in the County of Ontario?
20 That would be your own view there?

21 MR. MORLEY: I would think, I wouldn't
22 say immediately. I would say eventually, within a
23 short period of time, say a year or two it would, yes.

24 THE CHAIRMAN: Would you suggest this,
25 that those having the two-thirds would have the total
26 assessment? Suppose you had a county with a lot of
27 small municipalities and they could have a two-thirds
28 vote without the large ones. Would you say that this
29 two-thirds must hold 50% of the assessment?

30 MR. MORLEY: I think, Mr. Chairman,
it should be tied down. There are other things in
the County Council that bring in the total assessment
along with it.



1
2
3 THE CHAIRMAN: Any other questions
4 on that point from the members of the Committee? Do
5 any of your members here want to speak?

6 MR. DOWSWELL: Yes, I would. Last
7 week I attended an area convention in the County of
8 Niagara Falls. I believe there is one county now, I
9 believe it is Lincoln County that have assessment --
10 assessor for the county. I believe that is Lincoln.

11 I asked about it. They are the only
12 county working under this system, they are the only
13 county in the Province of Ontario under this system.
14 They had two members from one community who were opposed
15 and the way they got into the system, they were absent
16 one day and they took a vote.

17 MR. COWLING: That is a good democratic
18 deal.

19 MR. SINGER: Good example of local
20 autonomy.

21 MR. DOWSWELL: It was challenged in
22 Court and upheld.

23 THE CHAIRMAN: That is the law of
24 democracy. They have to attend.

25 MR. DOWSWELL: That is what happened
26 in Lincoln.

27 THE CHAIRMAN: To your knowledge they
28 did pass the by-law?

29 MR. DOWSWELL: I am not sure it is
30 Lincoln County, but there is one county because our
Assessment Committee is contemplating going down and
looking into this before the year is out to see what they



1
2
3 have accomplished and study what the merit of the
4 county assessment plan is. We come up with equalization
5 and got an equalization report. It always hurts
6 somebody. It seems to be a problem that creates a lot
7 of ill-will in Council. If it was all under one guidance
8 I don't think there would be.

9 THE CHAIRMAN: Your experience as
10 Warden, how many years were you in County Council?

11 MR. DOWSWELL: I have five years in
12 County Council, eleven years in municipal affairs.

13 THE CHAIRMAN: What is the opinion of
14 the committee on equalized assessment?

15 MR. DOWSWELL: It is a big problem.
16 We brought in a consultant, Mr. J. P. Coon, who did an
17 assessment of each, percentage assessment of each, I
18 think 2% of each municipality. They brought in an
19 equalization report. This actually is a report which
20 is not the County Assessor's.

21 THE CHAIRMAN: Has it been abandoned?

22 MR. DOWSWELL: It hasn't, because it
23 is the answer. It wouldn't be without controversy,
24 I can answer that.

25 MR. MORROW: Mr. Dowswell, do you know
26 of any other county that has taken a vote in regard to
27 appointing a County Assessor, through your association?

28 MR. DOWSWELL: No, I can't answer that,
29 Mr. Morrow.

30 MR. MORROW: Lincoln is the only one
you know that has really taken a vote?

MR. DOWSWELL: I wouldn't have information



1
2
3 about this. I have heard Mr. Bungwell, speak on the
4 subject of assessment. He came up with the various
5 statements that I made here.

6 MR. SINGER: Do you know when Lincoln
7 did this?

8 MR. DOWSWELL: I think about two years
9 ago, but that is only a guess.

10 MR. COWLING: Could we find out?

11 THE CHAIRMAN: If that happened they
12 made at least one assessment.

13 MR. THOMAS: Yes, for the whole county.

14 THE CHAIRMAN: We will find out the
15 date.

16 MR. THOMAS: I think it is important --
17 I think it is most desirable you have a County Assessor
18 over the whole county. You take some of the smaller
19 municipalities, appoint an assessor -- admittedly he
20 is under the supervision of the county assessor, you
21 pay him \$1,000.00 to \$1,500.00 -- what kind of a job
22 do you expect to get from these people?

23 MR. EVANS: When I was Warden of
24 Simcoe County we tried to go around 30-some municipalities,
25 doing a survey job on this very thing. We, though, we
26 didn't succeed, but we got a little closer to the
27 situation where I think there is -- I think there are
28 three municipalities using county assessor. I know
29 it is a tough thing to put across. I don't think it
30 should be a 100% vote. I think probably it should be
a two-third vote. I think the rest of them would accept
it that way, that is my feeling.



about this. I have heard Mr. [unclear] speak on the
subject of assessment. He came up with the various
statements that I made here.

MRS. [unclear]: Do you know when [unclear]

did this?

MR. [unclear]: I think about two years
ago, but that is only a guess.

MR. [unclear]: Could we find out?

THE CHAIRMAN: That happened after

at least one assessment.

MR. [unclear]: Yes, for the whole county.

THE CHAIRMAN: We will find out the

date.

MR. [unclear]: I think it is important to

I think it is most desirable you have a county treasurer
over the whole county. You take care of the various
municipalities, appoint an assessor -- appoint him
is under the supervision of the county treasurer, and
him \$1,000.00 to \$1,500.00 -- a good kind of a job.

do you expect to get from the people?

MR. [unclear]: When I was treasurer of

Lincoln County we tried to go around 10-cent amount and
as a survey job on the whole county. I think we

where I think there is a lot of money

municipalities and money is being

is a tough thing to do because I think it is

should be a 100-cent. I think it should be 100-cent

a two-third vote. I think the best of the whole

it that way, that is the best.



1
2
3
4 THE CHAIRMAN: Mr. McNeil, as another
5 ex-warden what was your experience?

6 MR. McNEIL: We didn't even have a
7 County Assessor when I was in.

8 MR. THOMAS: I suppose it is true to
9 say we would have to be able to bring this about. I
10 can remember a battle in the years gone by when the
11 question of County Assessor was on. I think the County
12 of Ontario was one of the first counties to appoint
13 a County Assessor. I think these men will bear me out.
14 I was on Council and remember the battle that went on
15 to get an appointment of a county assessor. I suppose
16 we will meet with the same opposition to such legislation
17 as this, but eventually it will have to come.

18 THE CHAIRMAN: I would think anybody
19 that had taken part in equalization -- the first big
20 one in the County of York cost \$30,000.00 to bring in
21 a report. After we got the report County Council threw
22 it out the window and did it itself, so the question of
23 equalization is something that all members who have sat
24 on those committees will see through a county assessor.
25 That is my opinion.

26 MR. MORROW: There has to be a lot
27 of education and a sell job done before they
28 will accept it.

29 MR. THOMAS: The same thing applied
30 before appointment of a county assessor.

MR. MORROW: The same thing as county
school boards and school districts, it took the department
that long to sell to the provinces. It will take a
long time to sell County Assessors.

187. Mr. [Name] is about 40 years of age.

County Assessor [Name] is [Name].

Mr. [Name] is [Name].

say we would like to be able to [Name] this [Name].

can remember a little bit of [Name] [Name] [Name].

question of County Assessor [Name] is [Name].

of Ontario was one of the first [Name] to [Name].

a County Assessor. I think [Name] [Name] [Name].

I was on Council and [Name] the [Name] [Name].

to get an appointment of a County Assessor [Name].

we will meet with [Name] [Name] [Name].

as this, but eventually it will [Name] [Name].

THE CHAIRMAN: I would [Name] [Name].

that had taken part in [Name] [Name] [Name].

one in the County of York [Name] [Name] [Name].

a report. After we got the [Name] [Name] [Name].

it out the window and [Name] [Name] [Name].

equalization is something that [Name] [Name] [Name].

on these [Name] [Name] [Name] [Name].

that is my opinion.

THE CHAIRMAN: [Name] [Name] [Name].

of education and a [Name] [Name] [Name].

will accept it.

THE CHAIRMAN: [Name] [Name] [Name].

before [Name] [Name] [Name] [Name].

at [Name] [Name] [Name] [Name].

report [Name] [Name] [Name] [Name].

that long to [Name] [Name] [Name] [Name].

long time to [Name] [Name] [Name] [Name].



1
2
3
4 MR. THOMAS: There was opposition to
5 setting up school areas.

6 THE CHAIRMAN: I would think members
7 of County Council who did that are the ones to educate
8 one another for this program.

9 MR. MORROW: I have talked, Mr. Chairman,
10 to the majority of the municipal officials. I am
11 speaking of ours, forgetting the rest of the County of
12 Carling, for the last couple of years, about a county
13 assessor. I would judge there are about 75% opposed
14 to it because they all have their own little appointments and
15 they would not be able to get somebody appointed that
16 would be satisfactory to everybody. I know it would
17 take quite a selling job to get them to go for it.

18 MR. COWLING: They would be better
19 sold by a successful county operating under it, to take
20 a look at it.

21 MR. MORROW: I think the Municipal
22 Affairs, Mr. Singer, really has to do an education job
23 on it.

24 MR. SCOTT: As a county which has been
25 involved in assessment appeals I feel county assessment
26 has to be mandatory, we can't go on in Ontario County
27 on a hodge-podge assessment, the way we are at the
28 present time. I feel something has to be done about
29 it.

30 THE CHAIRMAN: Surely ~~you~~ haven't got
to be told what to do.

MR. SCOTT: I think something has to
be done if we don't do it on our own. We are told what
to do in many instances.



Mr. THOMAS: There is a question as to

THE CHAIRMAN: I would think we need

one another for this purpose.

MR. THOMAS: I have written, Mr. Chairman,

the substance of what I have said.

reading of course, for the first time, and I am

ing, for the first time, and I am

reason. I would judge we are about to

re it because they all have their own little

they would not be able to get together

and he anticipated it. I am not sure

MR. THOMAS: I am not sure

and by a successful study of the

a look at it.

MR. THOMAS: I am not sure

affairs, Mr. Singer, really are

on it.

MR. THOMAS: I am not sure

involved in matters, and I am not

as to be satisfactory, and I am not

a hedge-hedge as to what

and I am not sure

MR. THOMAS: I am not sure

be told what to do.

MR. THOMAS: I am not sure

done? we don't do it on our own. We are



1
2
3
4 MR. SINGER: That is the very point
5 I am making.

6 MR. THOMAS: On assessment, surely we
7 should give them some direction.

8 THE CHAIRMAN: Surely, the elected
9 members to local municipalities -- they sit on county
10 council, surely, I repeat, that they who have gone
11 through equalization, surely they will vote for county
12 assessor.

13 MR. SINGER: They don't.

14 MR. SCOTT: They don't. County Councils
15 change. They change year by year, and the ones that
16 went through equalization may not be making the decision
17 the following year, and they are attached to local
18 autonomy and a local assessor. I think that is in
19 Ontario County and the Township of Pickering, it is
20 a very serious question.

21 MR. MORLEY: Mr. Chairman, carrying
22 Mr. Scott's point further, the County of Ontario had
23 an appeal against equalized assessment two years ago.
24 I would say 50% of Council has changed since that time.
25 If you were talking to Council today, the cost and the
26 ill feeling that was generated by that appeal in the
27 Courts is largely forgotten.

28 THE CHAIRMAN: Anything further you
29 want to say on that point?

30 MR. MORLEY: No, not on that point.
We would, on the general principle of the thing, suggest
that this could be mandatory, that the provincial
assessment manual be used. I admit the County of Ontario



1
2
3
4 doesn't use the present one, but a provincial manual
5 based on current values -- that is the reason we don't
6 use it. The expanding population and growth we have
7 in the southern parts of the province, certainly the
8 southern parts of the County of Ontario -- unless the
9 manual is revised very regularly it is practically
10 useless.

11 MR. COWLING: We have heard that the
12 County of Ontario doesn't use the provincial manual.
13 It would be interesting to find out how many counties
14 do.

15 THE CHAIRMAN: I don't know whether
16 you could do that or not.

17 MR. SINGER: Nobody is going to tell
18 you.

19 THE CHAIRMAN: Not only that, they
20 might use part of it.

21 MR. MORLEY: That is right, they use
22 the Provincial manual in part.

23 MR. SINGER: I would like to see a
24 uniform standard of assessment all through the
25 province.

26 MR. MORROW: The assessment people and
27 the department officials say there is no one manual
28 that you could write that is applicable or will suit
29 the whole Province of Ontario, that you have to have
30 different manuals to make it applicable.

MR. MORLEY: Mr. Chairman, Mr. Morrow,
the Department sends out individuals to make spot checks
and they may not use the same system, and on the basis



10
"Oxley"

doesn't use the present one, but a good one. It is
based on current values - that is the reason we don't
use it. The expansion of population and growth we have
in the southern parts of the province, certainly the
southern parts of the County of Ontario - unless the
manual is revised very rapidly it is practically
useless.

MR. GOWLING: We have heard that the
County of Ontario doesn't use the provincial manual.
It would be interesting to know how many counties
do.

MR. CHAIRMAN: I don't know of any
you could do that on now.

MR. GOWLING: I don't know of any
that are using it.

MR. CHAIRMAN: And only that, that
might use part of it.

MR. GOWLING: That is right, that is
the Provincial manual in fact.

MR. CHAIRMAN: I would like to know
uniform standard of measurement of the land in the
provinces.

MR. GOWLING: The standard measurement
the department of lands says there is no one standard.

that you could use that is possible in the field and
the whole Province of Ontario, that is the case.

different manuals to make it apply to
the different parts of the Province.

different standards and I am afraid that is the case and
and they are not using the same units, and on the whole



1
2
3 of these spot checks we are graded.

4 MR. SINGER: For provincial grants.

5 MR. MORROW: What manual do they use?

6 MR. MORLEY: I have no idea. We
7 don't see them, but we are 92% or 101% or 85%.

8 MR. SINGER: That return is tabled
9 in the Legislature every year. They run through every
10 municipality. There isn't one -- I have looked through
11 them, and there isn't one that is exactly even.

12 THE CHAIRMAN: I would think, gentlemen,
13 that the counties should have county assessment before
14 you come up with a manual. I think the County Assessor
15 should come first, and then your manual follows, don't
16 you think?

17 MR. MORLEY: We definitely feel to
18 begin to equalize assessment we must start at the county
19 level, and start by a majority vote of council. With
20 the present legislation it is almost impossible to
21 achieve county assessment unless this restriction is
22 removed and then the next step is that some uniform
23 method should be used by all County Assessors.

24 MR. SINGER: Did you talk at all about
25 qualifications of assessors?

26 MR. MORLEY: No, Mr. Singer.

27 MR. SINGER: The suggestion has been
28 made, and I think it is a rather good one, that there
29 be some provincial standard of qualification similar to
30 the provincial standard of qualification for municipal
auditors.

MR. MORLEY: Mr. Chairman, Mr. Singer, I



1
2
3 would suggest if you were down to a county assessor
4 and their assistant you would have a group which would
5 be much easier to direct and contact because of the
6 numbers. Even at the present time we have 18 assessors
7 in the County of Ontario where one would be doing the
8 job.

9 MR. SINGER: And you pay them better
10 and attract good people?

11 MR. MORLEY: Definitely.

12 THE CHAIRMAN: Mr. Morley, has this
13 matter been dealt with at the Ontario Mayors and Reeves?

14 MR. MORLEY: I haven't looked at the
15 agenda for this year.

16 THE CHAIRMAN: Don't they meet this
17 month?

18 MR. MORLEY: Yes, they do and it is
19 on the desk.

20 THE CHAIRMAN: Since the Act was
21 amended?

22 MR. MORLEY: No, I don't think so, sir.

23 MR. EVANS: Mr. Chairman, you were
24 asking about schools in order to have equality amongst
25 the different districts, the school children supporting
26 that school -- you have separate towns where a county
27 assessor has no jurisdiction over.

28 MR. MORLEY: Yes, we have in Oshawa.

29 THE CHAIRMAN: The City of Oshawa has
30 its own Board of Education.

MR. MORLEY: They are not part of our
system and the school areas I refer to were all within the

1907

would suggest if you were down to a county business
and their assistant you would have a record which would
be much easier to direct and control because of the
numbers. Even at the present time we have 18 persons
in the County of Ontario where one would be doing the

MR. SIMON: And you saw them last year?

MR. MORLEY: Definitely.

THE CHAIRMAN: Mr. Morley, has this
matter been dealt with at the Ontario Legislature and recently
MR. MORLEY: I haven't looked at the

THE CHAIRMAN: Would they deal with

MR. MORLEY: Yes, they do not in a

THE CHAIRMAN: Can the Act be

MR. MORLEY: No, I don't think it can be

MR. MORLEY: The Chair and you are

asking about schools in order to have equal
the different districts, the school children attend the
at school -- you have several of these where a country
has no public school one

MR. MORLEY: Yes, as there is a school

THE CHAIRMAN: The Bill of 1907

is own Board of Education

MR. MORLEY: They are not part of our

system and the school areas I refer to were all



1
2
3 County, Mr. Evans.

4 MR. EVANS: There are not many cases
5 where there are separated towns which have high school
6 districts. The City of Barrie, separated town.

7 THE CHAIRMAN: Barrie high school
8 district?

9 MR. EVANS: High school district which
10 takes in about six townships.

11 MR. THOMAS: The Town of Whitby?

12 MR. MORLEY: It is in the high school
13 district of Ajax.

14 THE CHAIRMAN: That is a city in Ontario
15 County.

16 MR. MORLEY: It is a city in Ontario
17 County. It would seem to me necessary to have, if we
18 can stay in the County field of assessment, obviously a
19 provincial manual which might be mandatory would then
20 control the cities for that purpose, at least.

21 THE CHAIRMAN: Would you carry on.

22 MR. MORLEY: There is nothing further
23 under that question, then.

24 The next question, is one that is
25 really more often annoying to County and municipal
26 officials than the assessment which comes once a year
27 and then is over. That is the problem of the Planning
28 Act that is with us all the time. I refer you to Section
29 26, subsection 1(c) which reads as follows:

30 "The land is ten acres or more in area
"and the land remaining in the grantor,
"mortgagor or vendor abutting on the
"land conveyed or otherwise dealt with is



"also ten acres or more in area...."

We suggest in our brief that this circumvents the powers of the local Planning Board. We feel any areas under subdivision control or any type of planning control, it should be complete, that the Planning Board should have complete jurisdiction. The reason for this, gentlemen, is simple and I don't know why we have gone along as long as we have without objecting more strongly: A one hundred acre farm is divided, say, into ten parcels. I decide to build four or five houses on my parcel and there is nothing anybody can do to stop me and in the final analysis we have a hopeless hodge-podge of building. I control all the future services and particularly the road patterns. It becomes a completely impossible situation to integrate into the plans of the municipality.

However, if I am the owner of four acres of land, we will say, and you are the owner of ten to twenty, you can subdivide and sell ten of them, but I can't do a thing with it, which is a type of discrimination. We feel and we feel strongly if your Planning Act is to control it must control completely, because this is going on in our county and there are dozens of others where people, by tens years of building houses for their sons and daughters all over the place, it is an impossible thing to service when services come because of the distance back from the road, the fact that you can't get roads in et cetera. There is nothing anybody can do about it in the final analysis. It is up to elected representatives in Council more or less agreeing to break the law and allow parcels to be



also for super or more in some.

Just in our power that this circumstance the

powers of the local planning board. We feel any

under subdivision control or any type of planning

control, it should be complete, not the planning board

The reason for this

gentlemen, is simple and I don't know why I have

along as long as we have without objection more strongly

A one hundred acre farm is divided, say, into ten

parcels. I decide to build four or five houses on

any parcel and there is nothing anybody can do to stop

me and in the first instance we have a houseless house

bodies of building. I control all the future

and particularly the next section. If I

completely impossible situation to understand in a

However, if I see the way of

series of land, we will say, and you are the owner of

ten to twenty, you can subdivide and sell to

but I can't do a thing with it, which is a

discrimination. We feel and we feel strongly in

for their own and neighbors all over the place.

is an impossible thing to require when someone

of the license back from the land, the

you can't get words in or out. There is nothing

can do about it in the first

to elected representatives in Council more or less

needing to break the law and allow people to be

1
2
3 subdivided when the original owner dies or something
4 else happens and allow concessions, consents be granted
5 to permit these properties to be conveyed to whoever
6 happens to be sitting on them at the proper time. We
7 feel that this is - this puts the Planning Board
8 in a very vulnerable position, and they cannot carry
9 out their duties.

10 THE CHAIRMAN: How many municipalities
11 in Ontario County have an official plan?

12 MR. MORLEY: Not too many, Pickering
13 Village has one.

14 MR. SCOTT: We passed it Monday night.
15 It hasn't the Minister's approval.

16 MR. MORLEY: There are very few
17 official plans.

18 THE CHAIRMAN: If they had official
19 plans they might have better control.

20 MR. MORLEY: You still can't stop them
21 building.

22 MR. SINGER: Can't you with a zoning
23 by-law?

24 MR. MORLEY: Not if it meets the
25 zoning by-law, they can still build.

26 MR. SINGER: With your zoning by-law,
27 couldn't you designate the large areas as only allowing
28 one house per ten acres or one house per five acres?

29 MR. MORLEY: Mr. Singer, very few
30 municipalities would have zoning by-laws covering the
whole municipality done by areas or sections.

MR. SINGER: Very few would have that,

1 but they could easily be done.

2
3
4 MR. MORLEY: Maybe that could control
5 it.

6 MR. MORROW: We have the situation
7 down there outside of Ottawa-Carleton, the municipalities
8 of March, Nepean and Goulbourn, where there is large
9 land development taking place in the three townships
10 where they made -- this has been going on for two years,
11 and the Department here keeps receiving subdivision
12 plans, until these three municipalities got together
13 and submitted an official plan they just wouldn't let
14 them go ahead. This has been going on for two years
15 but they are finally getting on, the three municipalities
16 are developing an official plan for what is going to
17 happen in that area of the three townships. They
18 wouldn't let them go ahead. The Planning Branch refused
19 to let them go ahead and build.

20 MR. MORLEY: Yes, but Mr. Singer and
21 Mr. Morrow, even if they have an official plan that
22 doesn't stop them subdividing the property because the
23 Act says you may subdivide ten acres or more, you don't
24 have to have consent of Planning Board. You don't go
25 to Planning Board.

26 MR. MORROW: If in the opinion of
27 the Planning Branch -- they need not okay subdivisions.

28 MR. SINGER: It is not a subdivision.

29 MR. MORLEY: It is not a subdivision,
30 you are taking a farm and getting ten acre lots.

MR. MORROW: You can go that far, as
far as starting to build, can you go ahead and build?



1
2
3
4 MR. MORLEY: Providing you meet building
5 regulations of the building guide of the area, as long
6 as you don't transfer the land.

7 MR. MORROW: They are all individual?

8 THE CHAIRMAN: Do you know many cases?

9 MR. MORLEY: Yes, there are. This
10 happens all the time. It isn't as though it happens
11 in back concessions. This happens on the arterial
12 roads where development will take place within the
13 foreseeable future, you have got this hodge-podge of
14 ten acre lots with houses scattered here and there.

15 THE CHAIRMAN: I would think they
16 would get into an awful tangle in the future, ten acre
17 property, from the standpoint of assessment of taxes
18 for one house. Would that come to the County Board
19 then?

20 MR. MORLEY: True, but the damage is
21 done as far as your services and your road pattern.

22 MR. SINGER: We have green belt in
23 the Township of North York which allows, if my memory
24 serves me correctly, one house per two acres or five
25 acres.

26 THE CHAIRMAN: Two, I think.

27 MR. SINGER: Two, and I don't see any
28 reason why you couldn't have a farming zone where you
29 can have one house per ten acres. You could do it by
30 zoning by-law.

THE CHAIRMAN: Scarborough is attempting
that right now. Fifty farmers are opposed to the
procedure.

MR. MORLEY: Now, if you need him.

regulations of the building code of the city, as long

as you don't transfer the land

MR. MORLEY: They are all individuals.

THE CHAIRMAN: Is there any more to be said?

MR. MORLEY: Yes, there are. This

happens all the time. It isn't as though it happens

in back concessions. This happens on the street.

roads where development will take place within the

reasonable future, you have got this lot of

land some lots with houses scattered here and there

THE CHAIRMAN: I would think that

would get into an awful tangle in the future, for some

property, from the standpoint of assessment of taxes

for one house. Would that come to the County Board?

MR. MORLEY: Yes, but the County Board

is as far as your services and your road service.

MR. CHAIRMAN: He has a right to

the township of West York which allows, it is my

service the property, one house for two acres of land.

Answer.

THE CHAIRMAN: Now, I think

MR. MORLEY: Yes, and I don't want

reason why you couldn't have a lot of land where you

can have one house per lot where you would get

nothing by-law.

THE CHAIRMAN: Now, I think

that right now, I think

proceeding.



Morley

190

1
2
3
4 MR. SINGER: I recognize you are going
5 to get opposition, but the same thing these gentlemen
6 are suggesting is going to too.

7 MR. COWLING: Ten acres is a very good
8 chunk of property.

9 MR. MORLEY: Before that development
10 the ten acres parcel would be more or less market
11 gardening.

12 MR. COWLING: Wouldn't you go along
13 with the idea of leaving the ten acres, people in the
14 ten acres, according to the County set-up, if they built
15 within the ten so there could be sewer service, instead
16 of all over the place as they are now? Would that make
17 a difference?

18 MR. MORLEY: Well, Mr. Chairman, Mr.
19 Cowling, the Act doesn't give us any right to do anything
20 about it. The Act specifically includes ten acres or
21 more. We have no subdivision control on it.

22 MR. THOMAS: None at all?

23 MR. MORLEY: No.

24 THE CHAIRMAN: I don't think that section
25 has been amended since 1946.

26 MR. COWLING: It is a big piece of
27 property. How many houses could you build on ten acres,
28 average houses?

29 MR. MORROW: Serviced or without?

30 MR. COWLING: Fifty?

MR. MORLEY: About five to an acre.

MR. COWLING: Maybe it should be
amended to reduce that.



Morley

191

1
2
3
4 MR. MORLEY: Suppose you had an
5 arterial road, Mr. Chairman, Mr. Cowling, everybody
6 builds at, say 150 feet lots -- you are going to have
7 660 feet -- you are going to have about six or seven
8 houses on that road running 660 feet deep. What are
9 you going to do with that type lot? The Township of
10 Pickering, and Mr. Scott is here and he can support me
11 if I am wrong, they have a number of acres which have been
12 subdivided in this manner. The back lands are sort of
13 a nuisance to everybody. They grow weeds.

14 MR. SCOTT: Mr. Chairman, if I may speak
15 to that. It is not a problem in Pickering of more than
16 one house on a ten-acre parcel. We can control that
17 by one house on a parcel. The problem you have in the
18 rural part of the township, which we are endeavouring to
19 maintain as rural areas in voluntary sales, ten acre
20 blocks, you finish up with ten houses scattered along the
21 road. That takes care of the first 100 feet. The other
22 ten acres becomes waste land. It creates a school problem.
23 It means that the urban areas in the municipality where
24 we have services, where the population should be
25 increasing, they can buy one of these lots on ten acres
26 for maybe less. We have very little control over the
27 development of our municipality because of this ten acre
28 situation. It creates a real problem.

29 THE CHAIRMAN: Would there be no zoning
30 by-laws over that?

31 MR. SCOTT: There is an official plan
32 and there could be zoning by-laws. There will be a zoning
33 law, but it will not do away with the ten acre situation



1
2
3 because it is outside the Act. We are going to
4 endeavour to do something about that by frontage. We
5 are going to try and make sure of the ten acre parcel
6 so it wouldn't be economic. We feel the whole
7 situation is very difficult in our municipality.

8 MR. MORLEY: We feel, Mr. Chairman,
9 that these ten acre lots should come in under the Act
10 and be controlled by the Planning Board completely.

11 THE CHAIRMAN: What is your recommenda-
12 tion?

13 MR. SINGER: That this be repealed.

14 THE CHAIRMAN: Just repealed?

15 MR. SINGER: It would give control
16 completely to the Planning Board.

17 MR. MORLEY: That that should be repealed
18 and the Planning Board would take over on all sizes.

19 MR. SINGER: Do you think these decisions
20 should be made by the Planning Board without reference
21 to Council?

22 MR. MORLEY: Mr. Chairman, Mr. Singer,
23 I can see no particular harm because Planning Board
24 only has limited powers.

25 MR. SINGER: Its only real powers are
26 advisory powers?

27 MR. MORLEY: It is advisory to Council,
28 Council must pass legislation.

29 THE CHAIRMAN: They have authority on
30 the official plan.

MR. SINGER: Its only real power Council
has no jurisdiction over at all, but they have appeal from



1
2
3 Planning Board to the Municipal Board on land taxation.

4 THE CHAIRMAN: No.

5 MR. SINGER: I thought that might be...

6 MR. TAYLOR: The amendment was made
7 you can oppose. - You can appeal the same as all plans.

8 MR. SINGER: But a difficult Planning
9 Board could override the Council because of its powers.

10 MR. MORLEY: On the other hand
11 Planning Board are the caretakers of Council.

12 MR. SINGER: Sometimes they just don't
13 see eye to eye.

14 THE CHAIRMAN: Then again, Mr. Morley,
15 has this been discussed in County Council?

16 MR. MORLEY: Yes, this takes the
17 same procedure as the other. Actually, Mr. Chairman,
18 we had a delegation that came before the Committee
19 urging us to do something about this particular problem,
20 and that was way up in the middle of the County, 30
21 miles from the lakefront.

22 THE CHAIRMAN: How would it be if that
23 was optional, they passed a by-law that didn't come under
24 that Section.

25 MR. MORLEY: I imagine if legislation
26 is amended each municipality ...

27 THE CHAIRMAN: They would be on their
28 own. They could either control it or fail it.

29 MR. THOMAS: If you are going to make
30 is permissive, why not go whole-hog and repeal it?

THE CHAIRMAN: There might be a lot
of counties throughout the province that think it is



Morley

194

1
2
3
4 all right. Pickering Township -- Ontario County today
5 is getting pretty close to being more urban than rural.

6 MR. MORLEY: That is correct.

7 MR. EVANS: Mr. Chairman, has Mr.
8 Morley ever considered planning on a county basis?

9 MR. MORLEY: Mr. Chairman, Mr. Evans,
10 we have promoted, in this sense, that we have aided
11 and assisted various municipalities in the County to
12 set up planning boards and we at that time -- that
13 would be back in 1957 and 1958 -- 1958 when I was
14 Warden we established a number of Planning Boards in
15 the County, and they are all operating. We thought
16 that that was the proper approach at that time, to
17 first organize the municipalities themselves rather
18 than to try a county approach where there is no Planning
19 Board at all. I still think that our approach was
20 right because the public has now been educated to a
21 degree as to what a planning board constitutes and
22 what it does and the final results of planning board
23 action. I can say I am positive because of our own
24 experience in the early stages of Planning Board you
25 are told many times you are depriving the right of the
26 citizens to do as they like on their lands. In the
27 course of a year or two the same people are the
28 greatest supporters when they see the value of the
29 control as it affects their land when somebody else
30 wants to do something that would depreciate their
property. I think it is a case of education. I would
say the County of Ontario at the present time, to
answer your question specifically is approaching a place



1
2
3 where county planning could be considered.

4 MR. EVANS: In an advisory capacity?

5 MR. MORLEY: Yes.

6 MR. SINGER: Who advises at these
7 local Planning Boards? Do many of them have staffs?

8 MR. MORLEY: Some of them do, sir.

9 The original set-up we had from the county was -- the
10 committee that went out was largely composed of men
11 -- Mr. William Manning, Chairman of the first Planning
12 Board, Whitby and Pickering County, myself, who was
13 vice-chairman under him, and one or two others. We
14 went out with members of the department and talked
15 to the people and were successful in persuading them
16 to set up a planning board in each case.

17 THE CHAIRMAN: Mr. Morley, if we
18 repeal Section 26 what are you going to put in?

19 MR. SINGER: He hasn't repealed the
20 whole section, just subsection 1(c).

21 THE CHAIRMAN: That is right, I know,
22 but what are you going to put in its place? You have
23 to put something in its place.

24 MR. SINGER: That is their argument.

25 THE CHAIRMAN: I don't think that
26 is all right because even if you repeal that question
27 of ten acres there should be something in there to
28 say a man can sell at least one acre without going
29 through the expense of putting on a plan, going to the
30 Planning Board.

MR. MORLEY: No, Mr. Chairman, I don't
think there should be any loophole, the only loophole



1
2
3
4 which applies to the municipalities, to my knowledge,
5 they will grant consents when the number is not in
6 excess of three -- some hold it to two before they
7 require a subdivision plan. If they require more
8 consents than that they must put on a plan of subdivision
and meet all requirements.

9 THE CHAIRMAN: A man with four acres,
10 what happens to him?

11 MR. MORLEY: My answer to this, my
12 point of view on this particular problem at the moment,
13 I would say he would be required to put on a plan
14 because that is the only way to control it. This
15 does offer a very beneficial effect in future years.
16 They may put on a planning subdivision when the land
17 is divided then for all time you have a record of
18 the plan number and lot number which is easily traced.
19 It reduces the clerical work in the Clerk's office.
20 It is much easier in the registry office.

21 THE CHAIRMAN: Easier for assessing?

22 MR. MORLEY: Easier for everything.
23 I see no reason -- I can see a reason in the rural
24 municipalities for agreeing to consent up to one or
25 two to allow a farmer to sell his son a lot so he is
26 independent or something like that, yes, but where there
27 is urban growth at all I see no reason for not
28 requiring a planning subdivision.

29 THE CHAIRMAN: Would you make that
30 compulsory, he is entitled to consent.

MR. MORLEY: My personal opinion, Mr.
Chairman, is yes, I would permit that.

...to the municipalities, to my knowledge,
will grant consent when the number is not in
excess of three -- some hold it to two before they
require a subdivision plan. If they require more
consents than that they must put on a plan of subdivision
... ..

THE CHAIRMAN: A man with four acres,
what happens to him?

MR. MORLEY: My answer to this, my
point of view on this particular problem at the moment,
I would say he would be required to put on a plan
because that is the only way to control it. They
can offer a very beneficial effect in some cases.
They may put on a planning subdivision when the land
is divided then for all time you have a record of
the plan number and lot number which is easily traced.
It reduces the clerical work in the clerk's office
as much easier in the registry office.

THE CHAIRMAN: Again for assistance?

MR. MORLEY: Answer for every lot
see no reason -- I can see a reason in the municipalities
for agreeing to consent up to one or
two to allow a farmer to sell his land a lot so he is
dependent on something like that, yes, but what three
... .. at all I see no reason for not

THE CHAIRMAN: Could you make that

clear, he is entitled to consent.
MR. MORLEY: In personal opinion, Mr.
Chairman, is yes, I would permit that.



1
2
3
4 THE CHAIRMAN: You have to read in
5 that section, subdivision does not affect ten acres or
6 more, and also that you may sell without the given
7 consent of the Planning Board and if you don't get
8 consent of the Planning Board you have right of appeal.
9 If a farmer wants to sell off a small piece and didn't
10 get consent and on appeal he didn't get it, then his
land is frozen.

11 MR. MORLEY: That is right. Then, in
12 all justice, Mr. Chairman, the municipality should buy
13 the land.

14 THE CHAIRMAN: Do any of the other
15 gentlemen want to speak on it, any other questions from
16 the Committee?

17 MR. BALL: There is one other comment
18 I would like to make: In Pickering Township they have
19 their problem, and then coming into our township,
20 Uxbridge, it is not the farmer nine times out of ten
21 that makes the money. The farm is no longer needed
22 and the farmer says put it up for sale. We have one
23 main real estate venture that buys properties that
24 are suitable to breaking in ten-acre parcels, they
25 never come to Planning Board. They never come to us.
26 They put them up in ten acres with a price tag on it
27 that will undoubtedly, as a rule, bring them something
28 within ten or twenty times profit on it. They sell
29 at around \$200.00 to \$300.00 an acre, in some cases
30 less, maybe \$150.00 in some cases. They can buy these
properties, put up ten acre parcels at prices where
they can make a good piece of money for themselves. They



1
2
3
4 have turned it into a business. I don't think in our
5 own municipality, the people living there are doing it.
6 It is the outside element that is buying property.
7 We are having a real rush of it right now.

8 MR. SCOTT: Mr. Chairman, it also gives
9 a real benefit to one particular class. If you have
10 19 acres you can't do it. If you have ten you can do
11 it. This is one particular group, 19 acres would be
12 left with a parcel of nine acres and you have to have
13 Planning Board consent. If you have 20 acres you can
14 have two ten-acre lots.

15 THE CHAIRMAN: Would you say, in reply
16 to the question I asked, Mr. Morley, if the Act was
17 amended to take that ten acres out and a person wanted
18 to sell off two or three acres and he couldn't get
19 consent ...

20 MR. SCOTT: If it isn't good planning
21 any more to sell two or three from one hundred than to
22 sell two or three acres out of ten, it isn't good
23 planning.

24 THE CHAIRMAN: The farmer may have
25 the opportunity to sell a corner for a gasoline station.

26 MR. SINGER: That is the whole thing,
27 they can't sell two or three, only ten.

28 THE CHAIRMAN: If you had it so they
29 could

30 MR. SINGER: If you put in one or two
you are making it worse than it is now.

MR. SCOTT: If it was good planning
you could get Planning Board consent.



1
2
3
4 THE CHAIRMAN: Supposing they don't
5 consent to it?

6 MR. SCOTT: They have the same right
7 of appeal as the person under ten acres today. Under
8 ten acres they can control it today. Over ten acres
9 they can't, so they would have the same right of
10 appeal.

11 THE CHAIRMAN: I would like to see that
12 question submitted to County Council, the same as
13 Section 93a and see what percentage of votes you get
14 in favour of it.

15 MR. MORLEY: Thank you.

16 The other section we would like to
17 draw to your attention 28, subsection 5(a). I will
18 read one quotation. We really refer to the four places
19 that it appears, but to save time I would just read
20 one quotation, subsection 5(a):

21 "That land to an amount determined
22 "by the Minister but not exceeding 5
23 "per cent of the land included in the
24 "plan shall be conveyed to the
25 "municipality for public purposes other
26 "than highways, or, if the land is not
27 "in a municipality, shall be dedicated
28 "for public purposes other than highways".

29 Now these words "public purposes"
30 appear in subsection 8, in subsection 9 and in
subsection 10. This is something that the members of
the County Council of the County of Ontario also feel
very strongly about in that we feel it places an onus on



1
2
3 the Minister who may or may not be in a position to
4 determine what the public purposes are. For the moment
5 the Minister according to letters that I have determines
6 that public purposes mean public parks.

7 THE CHAIRMAN: That is just one, not
8 exclusive.

9 MR. MORLEY: That is what he says to
10 us.

11 MR. SINGER: Who says this?

12 MR. MORLEY: The Minister. I didn't
13 bring the correspondence with me. The point is that
14 we pointed out to the Minister, and I think we sent
15 copies of the correspondence to Mr. Dymond, so he
16 knows about it, that the Village of Pickering has
17 500 acres of which 25% is either parkland or floodland
18 which may not be used for any other purpose. In
19 addition to that we have pretty strict by-laws since
20 we have sewers and we have kept the buildings to 60
21 and 65 feet lots, so we have been reasonably open,
22 I would say, very reasonably open. We, like other
23 municipalities, feel there is no need of investing this
24 5% money, the land on the permission to sell the
25 lands and the money which is gained from the sale
26 into more public parks because we have the services
27 right now in our Village. Therefore, we seek the
28 Minister, and other municipalities have done the same,
29 that that money can be applied, in our particular case,
30 into the Water Resources Commission, sewer system
plants. We are not saying that is the only thing. We
are saying public purposes should be defined and we



Morley

201

1 suggest they be defined as follows:

2 "Community centres, municipal
3 "administrative offices, fire halls,
4 "accommodation for police departments,
5 "accommodation for the Public Utility
6 "Commission, parks, municipal cemeteries,
7 "sewage treatment plants and pumping
8 "stations and sources of water supply".

9 I agree, gentlemen, before you ask
10 me that this doesn't always apply in large urban centres
11 where pumping stations or sewer treatment or parks
12 or community centres specifically serve one section
13 of the City. I realize that problem. Nevertheless,
14 I think that could be resolved by the Departments who
15 would have control, could still give consent for the
16 use of the money. If the money came out of that area
17 I think it should be applied back in the area.

18 You will see in the list of things I
19 read off we are suggesting it be used to benefit
20 the community not as defined in our particular instance
21 or any other specific use, but it could be applied to
22 anything that will improve the lot of the ratepayer
23 in the entire community, not one section of ratepayers,
24 but the whole section, all public services that are
25 required.

26 MR. SINGER: You are complaining about
27 use of the 5% money in lieu of 5%.

28 MR. MORLEY: Which is defined as
29 public purposes, and in most cases public purposes are
30 defined by the Minister as parks.



1
2
3
4 MR. SINGER: If you take the land
5 you can use it for any purpose.

6 MR. MORLEY: The Minister permits you
7 to sell the land.

8 MR. SINGER: If you have use of the
9 land and you want to have a fire hall on that there
10 is no law on that.

11 MR. MORLEY: That is true.

12 MR. SINGER: In fact, what you are
13 complaining of is the exercise of the Minister's
14 discretion?

15 MR. MORLEY: That is right.

16 MR. SINGER: Not the statute.

17 MR. MORLEY: We think the statute
18 could start it up.

19 MR. SINGER: The Minister's discretion
20 should be limited by statute. I put forward on a
21 number of occasions money should be allowed to be used
22 to maintain public land. You can only buy them -- there
23 was another municipality I am aware of that is in the
24 same position. We have all the parks and public land
25 we need, lots of money in the 5% account. We can only
26 get consent for buying more land. The last thing we
27 need is more land. We need money to maintain the land
28 we have got and we cannot use the money for that
29 purpose.

30 THE CHAIRMAN: Are you suggesting it
should be put in the general fund?

MR. MORLEY: No, I don't think we
would go quite that far, Mr. Chairman. I think that this



1
2
3
4 5% should be employed for the general good of the
5 municipality.

6 THE CHAIRMAN: Wouldn't that be
7 general?

8 MR. MORLEY: I think it could have
9 abuse in the general fund.

10 MR. COWLING: In what way could it be
11 abused?

12 MR. MORROW: Going down with the good
13 roads.

14 MR. THOMAS: It would be lost in the
15 general fund.

16 MR. COWLING: You mean it wouldn't
17 go to reducing taxes?

18 MR. MORLEY: If it did go to reducing
19 taxes.

20 MR. SINGER: Unless it went in some-
21 body's pocket it would be used for the public.

22 MR. MORLEY: That would be disregarding
23 the purpose for which the 5% is taken. If you apply
24 it to those things we suggest it would go from reducing
25 of the general taxes and providing continuing services.
26 That is our argument. Personally, in a sense I don't
27 believe in applying anything to the tax rate from any
28 fund which just reduces the tax rate this year, but I
29 could see applying it to a specific area to reduce it,
30 to provide services for the years to come. I think
there is a vast difference between the two applications.

THE CHAIRMAN: You wouldn't suggest
it be used to assist hospitals, for instance?



1
2
3
4 MR. MORLEY: Well, Mr. Chairman, the
5 County of Ontario has one hospital plan on its own.
6 I would say that it would be quite in order, yes.
7 These are only our ideas, sir. I would say the
8 hospital thinks it is not a profit corporation.

9 THE CHAIRMAN: Wouldn't you members
10 of local Council, if it went into the general fund,
11 you would see it was used to best benefit.

12 MR. MORLEY: Mr. Chairman, I am forced
13 to say, no, Councils being Councils. To reduce the
14 mill rate, to make yourself a good fellow, I can see
15 it happening.

16 MR. SINGER: What about local autonomy
17 we were talking about a while ago?

18 THE CHAIRMAN: The 1961, 1962 amendment,
19 you don't think helps you at all.

20 "All moneys received by the municipality
21 "under subsection 8 and 9A and all
22 "moneys received on the sale of land
23 "under subsection 9, shall be paid into
24 "a special account and the moneys in
25 "such special account shall be expended
26 "only for the acquisition, with the
27 "approval of the Minister, of land to
28 "be held and used by the municipality
29 "for public purposes and may be
30 "invested in such securities as a trustee
"may invest in under The Trustee Act,
"and the earnings derived from the
"investment of such moneys shall be
"paid into such special account, and



"the auditor in his annual report shall
"report on the activities and position
"of the account".

MR. COWLING: Are you still on the
Council?

MR. MORLEY: I am Reeve of Pickering
Village and member of County Council.

MR. THOMAS: That does give the
Minister a tremendous amount of authority, Mr. Chairman,
doesn't it?

MR. SINGER: What these gentlemen are
complaining about is the discretion exercised in the
wrong way.

THE CHAIRMAN: That is the first time
I have seen any ruling.

MR. COWLING: I am rather surprised
when you say that you would not like to leave that to
the discretion of the Council.

MR. MORLEY: No, I am still going to
say it. This never happened in my municipality and
I don't think it ever will.

THE CHAIRMAN: Is it human weakness?

MR. MORLEY: I think it is human
weakness. If you wish to you can use instances where
public moneys have been misappropriated. I don't
think personally, once again, that this money which
is

THE CHAIRMAN: Donated.

MR. MORLEY: Donated, that is a nice
word, by the subdivider -- I think the intent of the Act,



1
2
3
4 I would think the intent of the Act would be it is to
5 be for public purposes. I think that is where it
6 should go, not to reduce the ordinary mill rate which
7 is done from year to year. I think it should be paid
8 into some account and used for some continuing service
9 which benefits the people that live in that subdivision,
10 that come to live in that subdivision from which
11 money was taken. In fact they pay it. It isn't the
12 subdivider. The net result is it is the man that
13 buys the house that is the man that pays 5% and all the
14 other costs and he should be the beneficiary.

15 MR. COWLING: Our friend here is
16 certainly giving the member down the table some real
17 good ammunition when he talks about local autonomy
18 and at the same time you say you'd better not let
19 them spend the money. I don't know how they can be
20 pulled both ways at the same time.

21 MR. THOMAS: This is not under
22 discussion.

23 THE CHAIRMAN: I wonder what Mr.
24 Morley would think when members may be elected to
25 Council who are not ratepayers and pass by-laws and
26 spend millions of dollars, and the by-laws submitted
27 to the vote of the people, ~~they~~ themselves can't
28 vote, and yet they sit on the Council and do it. What
29 do you think of that proposition?

30 MR. MORLEY: I think it isn't very
sound, to tell you the truth.

MR. MORROW: May I ask you, Mr.
Morley, whether they have many of these 5% parcels going

...and the intent of the act would be to
be for public purposes. I think that is where it
should go, not to remove the burden of what might
be done from year to year. I think it should be paid
into some account and used for some continuing service
which benefits the people. That time is that contribution,
it comes to live in that contribution from which
money was taken. In fact they pay it. It isn't the
individual. The net result is it is the man that
pays the house that is the man that pays it and all the
other costs and he should be made happy.

MR. COWLING: Our friend here is

certainly giving the members down the table some real
good ammunition when he talks about local authority
and at the same time you say you'd better not let
them spend the money. I don't know how they can be
helped both ways at the same time.

MR. THORNTON: This is not under

discussion.

THE CHAIRMAN: I wonder what the

members would think when members say he elected to
Council who are not ratepayers and pass by-law that
spend millions of dollars, and the ratepayers contribute
the vote of the people, that they should not
e, and yet they sit on the Council and do it. That
you think of that, you think of

MR. COWLING: I think it isn't very

ed, to tell you the truth.

MR. THORNTON: But I am not, but

view, whether they have any of these 25 Councils



1
2
3 to waste in your municipality? In Ottawa the 5%
4 parcels are all over the place and they are not
5 serving anything but propagating weeds.

6 MR. MORLEY: That is true, you can
7 sell them, of course.

8 MR. MORROW: By application to the
9 Minister to allow you to sell them. They originally
10 were, I think, placed there or developed by the
11 subdivider that it be playground for that particular
12 group of houses that was being built in the subdivision,
13 but it just hasn't panned out that way. There are
14 bushes all over the place. I think they should be
sort of grouped together for one big area.

15 MR. SINGER: If you are serious at
16 all about local autonomy you wouldn't expect this to
17 be done at Queen's Park. Surely it depends on the
18 intelligence and operation of your Planning Board to
19 organize it.

20 MR. COWLING: You want a definition
21 of public purposes. I can see some merit in what
22 you say. You could add to or take away from that list.
23 It would make the job much easier for local councils
24 to be able to specifically define land used for public
purposes. That is what you mean.

25 MR. SINGER: No, money. If they keep
26 the land they can use it for any public purpose.

27 MR. MORLEY: Permission to sell the
28 land, if you get the permission therefore you put the
29 money in trust accounts. There is no way to use it. In
30 our particular case, there is absolutely no way to use it.

to waste in your municipality? In other words
parcels are all over the place and they are not
serving anything but propagating weeds

MR. NOBLE: That is true, you can
sell them, of course.

MR. MORROW: By application to the
Minister to allow you to sell them. They originally
were, I think, placed there on developed by the

and when that it be proposed for that particular
group of houses that was being built in the subdivision,
but it just hasn't worked out that way. There are
bushes all over the place. I think they should be
sort of grouped together for one big area.

MR. STEWART: If you are serious as
all about local economy you wouldn't expect this to
be done at Queen's Park. Surely it depends on the
intelligence and operation of your Planning Board to
organize it.

MR. COULING: You want a definition
of public purposes. I can see some merit in that.
You say, You could not or take away from that. But
it would make the far much easier for local councils
to be able to specifically define land used for public

MR. STEWART: No, money. If they know

the land they can use it for any public purpose.

MR. NOBLE: Permission to sell the

land, if you get the permission therefore you get the

money in most accounts. There is no way to use it.

our particular case, there is also ways to use it.



1
2
3
4 MR. THOMAS: How much money have you
in funds?

5 MR. MORLEY: We have, oh, \$5,000.00,
6 \$6,000.00.

7 MR. COWLING: You are not saying on
8 page 2, you are not requesting this.

9 MR. MORLEY: To do something about it
10 we are requesting a definition of words, and then
11 we also -- there is no objection -- I don't think the
12 Committee have found any objection to land being sold
to get rid of the weed patches.

13 MR. MORROW: Most municipalities can
14 use it for recreation park ground.

15 MR. MORLEY: Yes.

16 MR. MORROW: Yours may be an exception.

17 MR. MORLEY: A lot of smaller
18 municipalities can't.

19 THE CHAIRMAN: Would you go further
20 and say, for instance, tax sale lands come into the
21 municipality and then is sold and the Council are free
22 to use profits, your tax sale money -- they are not
restricted?

23 MR. THOMAS: That tax sale is a little
24 different.

25 MR. MORLEY: You have purchased land
26 for default of taxes.

27 THE CHAIRMAN: That goes into the
28 general fund and is used for the benefit of the municipality.
Here you want to restrict the Councils.

29 MR. EVANS: Probably this money should
30



1
2
3
4 be taken and used in the subdivision in which it was
5 taken from in the first place if it is needed for some
6 other purpose like sidewalks or whatever it might be.
7 This is where the money comes from, those people in
8 the subdivision.

9 MR. MORLEY: Of course, Mr. Chairman,
10 Mr. Evans, that is quite overlooking the fact that
11 the subdivision forces any municipality to certain
12 other expenses.

13 MR. THOMAS: They don't pay for it.

14 MR. MORLEY: Policing, schooling,
15 garbage collection -- these things increase the cost
16 of the subdivision, therefore they do share responsi-
17 bility, so whether you could say the whole should be
18 returned to the area because they buy, they have been
19 formed as a subdivision, they have created a problem
20 for the existing municipality.

21 THE CHAIRMAN: One more reasons why
22 they should come into the general fund, to take care
23 of the cost of services.

24 MR. MORLEY: We think it should be
25 directed.

26 THE CHAIRMAN: By somebody else.

27 MR. THOMAS: Should be defined.

28 MR. MORLEY: Give latitude.

29 MR. SINGER: What has happened is
30 the Minister has listed himself.

MR. THOMAS: Absolutely.

THE CHAIRMAN: If it goes to the
general fund your local autonomy, they expect better



Morley

210

garbage collection. I think you have to trust the people, Mr. Morley.

MR. MORLEY: We do.

MR. COWLING: The Reeve must trust people or he wouldn't be in the position he is in.

MR. MORLEY: Thank you, Mr. Cowling. I have been there for ten years and not had an election yet. I think basically, talking in basics, basically we all try and do the same job, but sometimes not by intent, but by pressure of circumstances we don't do such a good job.

MR. COWLING: I guess we are all in the same position some time or another.

THE CHAIRMAN: Any other members with Mr. Morley that would like to add anything? You need not be restricted to this brief if you have something else you would like to say.

MR. MORLEY: Nothing I could mention, Mr. Chairman.

MR. SCOTT: Mr. Chairman, I don't know whether this is a proper place but representation on County Council is a very grave problem in Ontario County.

THE CHAIRMAN: We had a letter dated December 30th, 1960 sent to you, Mr. Thomas, by Mr. Manning. Mr. Thomas, could you read that.

MR. THOMAS: "Re: Appeals against
"Annexation Proceedings.

"At the December Session of the
"Council of the Corporation of the
"County of Ontario, the following



Morley

211

1
2
3
4 "resolution of Middlesex County was
5 "endorsed:
6 "THAT the Council of the County of
7 "Middlesex deplores and objects to the
8 "legislation, provided by the Provincial
9 "Government, whereby annexation
10 "applications are considered and disposed
11 "of affecting a County in many important
12 "matters, without the right of appeal,
13 "and request that this legislation be
14 "amended as soon as possible, and that
15 "a copy of this resolution be forwarded
16 "to the Minister of Municipal Affairs,
17 "to the Members of the Legislature
18 "for Middlesex County and to other
19 "Counties in the Province."

20 THE CHAIRMAN: Would you comment on
21 that, Mr. Morley?

22 MR. MORLEY: May I see the letter for
23 a moment?

24 MR. COWLING: While Mr. Morley is
25 refreshing his mind, I would like to point out this is
26 a very definite matter on our Municipal Advisory
27 Committee, maybe he would like to say something on this.

28 THE CHAIRMAN: I was going to ask
29 him, Mr. Cowling.

30 MR. MORLEY: Basically, as far as
that goes, Mr. Chairman, we use -- we feel democratic
principles should prevail. We should have the right
to appeal.

THE CHAIRMAN: Right of appeal to whom?



1
2
3
4 MR. MORLEY: I think we should have
5 the right of appeal before it goes before a Court.

6 THE CHAIRMAN: Do you remember the
7 legislation prior to 1935 or 1936 where people in the
8 area, the question was submitted to them, they had
9 a right to vote on it. Now, you understand it may be
10 required to have the vote. It used to be the area
11 to be annexed had the right to vote. What do you say
12 to that?

13 MR. SINGER: A plebiscite be taken.

14 MR. MORLEY: If I may say something, sir,
15 you know I honestly feel, Mr. Chairman, that provided
16 the services are given for a reasonable cost the public
17 is not too much concerned whether they are in this
18 municipality or another municipality.

19 THE CHAIRMAN: Today. It wasn't
20 always that.

21 MR. MORLEY: That wasn't so -- there
22 was a great deal, shall we say municipal pride in
23 belonging to a certain municipality. I think today
24 that has disappeared to a large extent. There is a
25 hot one for you.

26 THE CHAIRMAN: We have had that before
27 at our last meeting. Mr. Morley, would you like to
28 say a word on this letter to Mr. Thomas.

29 MR. MORLEY: Mr. Chairman, I don't
30 think I can add anything to the resolution. That
was the opinion of Council and it is not my opinion.
I don't say whether I endorse it or not, but Council
saw fit to endorse the resolution of Middlesex County



1
2
3
4 on that particular occasion. Many of the members, I
5 believe, weren't there on Council when the resolution
6 came before Council. I realize annexation is a great
7 problem and it has many ramifications.

8 THE CHAIRMAN: Was that resolution
9 passed unanimously?

10 MR. MORLEY: I can't say now. I
11 doubt it. It appeared in the report. There was no
12 required vote taken on it. I remember that, but I
13 don't think everybody agreed with it. If I remember
14 correctly there were some that disagreed with it. The
15 majority voted for it. Our procedure is when the
16 majority votes for a resolution it is sent to our
17 local members and the Minister concerned. That is why
18 Mr. Thomas, being one of our local members received
19 a copy of it. On this particular occasion, I guess
20 the Minister of Municipals Affairs would also receive
21 a copy of the resolution along with Dr. Dymond, who
22 also represents part of our county. That is our
23 general procedure.

24 THE CHAIRMAN: Mr. Morley, there is
25 appeal through the Municipal Board.

26 MR. THOMAS: Mr. Chairman, on the
27 question of annexation, I think it is a question of,
28 it could upset the whole county administration and
29 I think the County should have the right of appealing.

30 THE CHAIRMAN: The Municipal Board
takes that into consideration in the adjustment.

MR. THOMAS: Shouldn't the County
have an opportunity of presenting their case?



1
2
3 THE CHAIRMAN: They do.

4 MR. SINGER: They are entitled to be
5 heard by the Municipal Board.

6 THE CHAIRMAN: On the formation of
7 Metro the Municipal Board dealt with the question of
8 assets, with the County of York and Metro Toronto,
9 the jails and the registry offices and different things,
10 the Municipal Board dealt with that, and you have
11 the right to appeal from the Municipal Board to the
12 Lieutenant Governor in Council.

13 MR. MORLEY: You are posing a very
14 difficult question to this Committee, basically
15 because this is a problem which is not too far distant
16 in the County of Ontario, and therefore I personally
17 as Chairman, and I think the rest of my Committee,
18 would approach with a great deal of caution anything
19 we say at the moment. The reason I say that is
20 because we are becoming quite urbanized in the south
21 end of the County and the County runs up to the east
22 side of Lake Couchiching.. How far we are away from
23 dividing -- annexing one part is not definite, but
24 I foresee it in the future.

25 THE CHAIRMAN: Are you not satisfied
26 with the jurisdiction of the Ontario Municipal Board
27 in adjusting assets?

28 MR. MORLEY: I think on the basis --
29 I would side-step that.

30 MR. SINGER: The gentlemen have
raised the question about dissatisfaction with
representation on County Council. I would like to hear



1
2
3 more of your views on that.

4 MR. MORLEY: Mr. Chairman, I haven't
5 got the figures with me this morning, but in the County
6 of Ontario we have 18 municipalities. We have
7 municipalities which have populations from 700 to
8 populations of approximately 20,000. The municipality
9 with the population of 700 has one vote and the
10 municipality with the population of 20,000 and
11 \$25 million has four votes. We have got the situation
12 where the minority municipalities representing the
13 majority of the population and the assessment controls
14 the decisions of the County of Ontario. As long as
15 the representatives are broadminded and view the
16 whole picture from that point of view it is all right.
17 If the situation were they didn't, it would be a very
18 small minority of the population and assessment
19 controlling the destiny of the greater portion of the
20 people of the County of Ontario.

21 I was a member of a panel which met
22 in Peterborough a week or two ago when this was
23 discussed. There are many counties in similar
24 situations. This gives a great deal of concern to
25 County people generally. I am really not prepared to
26 speak. I thought we were limited to what was on our
27 brief.

28 THE CHAIRMAN: At the same time this
29 same County Council created these municipalities.

30 MR. SCOTT: To carry that a step
further, in the Township of Pickering a population of
20,000 or roughly 20,000 and has four representatives.



1
2
3 To get greater representation on County Council we
4 may be forced to create some villages in the Township
5 of Pickering just for that purpose, and that purpose
6 only.

7 MR. THOMAS: What would you suggest
8 would be the answer?

9 MR. SCOTT: I don't know what the
10 answer is, give greater representation -- greater
11 voting power to the municipalities with larger
12 populations and larger assessment.

13 THE CHAIRMAN: Not more members?

14 MR. SCOTT: Not more members.

15 MR. SINGER: Might the answer not be
16 the elimination of many of our municipalities? We
17 have thousands in the Province of Ontario.

18 MR. SCOTT: That is a drastic step
19 which would have to be done

20 MR. SINGER: Over a period of time.

21 MR. SCOTT: That is right, and that
22 would have to be done by provincial legislation.

23 MR. SINGER: That is the whole point.
24 This, I think, comes right to the root of the problem.
25 You talk about the importance of county assessment
26 and so on, really you are talking about the value of
27 large units.

28 MR. MORLEY: I think we have to get
29 away somehow from this local autonomy we talk about.
30 I think provincial legislation is going to have to,
to some extent, tell us what we are going to do. I
don't think we as local municipalities know where we
are going. I think that is what happened.



Morley

217

1
2
3
4 THE CHAIRMAN: In other words you
5 want more leadership?

6 MR. MORLEY: We want more direction.

7 MR. SINGER: There is a good note
8 then to close to, gentlemen.

9 MR. MORROW: Direction and encouragement.

10 MR. MORLEY: I think the root of our
11 problem is the municipal set-up was set up in 1850. In
12 1850 it could be very satisfactory. In 1962 it is
13 different. I think we are still in the county and
14 municipal set-up basically the same as it was 112 years
15 ago.

16 THE CHAIRMAN: We have had some briefs,
17 some recommendations that we have more county forms of
18 government and fewer municipalities and yet you say
19 perhaps Pickering should have more municipalities.

20 MR. SCOTT: I don't think we should
21 have more. In the way of getting greater representation
22 in the general area we may be forced to create villages,
23 but I would be very loathe to see that happen.

24 THE CHAIRMAN: Maybe we should have
25 less then?

26 MR. SCOTT: I think so.

27 THE CHAIRMAN: Well, Mr. Morley and
28 gentlemen we certainly appreciate your attendance here
29 before the Committee and the very constructive ideas
30 you offered. I am sure the Committee will take them
into consideration in due course. In the future if
you have any others send them along to us.

MR. MORLEY: Thank you very much, Mr.



Morley

218

Chairman and gentlemen. We restricted our brief to a few things. That is not all we had, but we thought it better to concentrate on one or two.

We thank you very much for hearing us.

---Luncheon adjournment.



1
2
3 ---Upon resuming at 2:00 p.m.
4

5 SUBMISSION OF
6 THE CORPORATION OF THE TOWNSHIP OF YORK
7

8 APPEARANCES:

9 MR. O.M. FALLS Commissioner of Works
10 MR. G.E. MITCHELL Treasurer
11 MR. J. H. BOLAND Solicitor

12 THE CHAIRMAN: Mr. Boland, you are
13 going to come up here and be the spokesman and these
14 other gentlemen can come along after.

15 MR. BOLAND: Yes, sir.

16 THE CHAIRMAN: Will you come up here.
17 I think Mr. Falls and Mr. Mitchell have a list of the
18 members.

19 Mr. Boland, would you introduce Mr.
20 Falls and Mr. Mitchell to the Committee?

21 MR. BOLAND: Yes, Mr. Chairman. May
22 I present the Commissioner of Works, Mr. O.M. Falls
23 for the Township of York and the Treasurer of the
24 Township, Mr. George E. Mitchell. I am solicitor for
25 the Board.

26 To preface my remarks, this Brief
27 was prepared by my predecessor. I have familiarized
28 myself with its contents, but I am not as familiar with
29 the ideas behind the suggestions as he would be himself.
30 Mr. Chairman, would you prefer I read the brief through?

THE CHAIRMAN: Just carry on and
make the remarks you want to make as you go on.



1
2
3
4 MR. BOLAND: The first item in the
5 brief is a request for an amendment to the Municipal
6 Act to provide to all municipalities the privilege
7 which has been extended to the City of Toronto by a
8 private Act covering boulevard parking. In essence it
9 allows the Corporation to license the use of the
10 boulevard for parking, commercial parking, that is
11 parking on boulevards adjoining commercial and industrial
12 property and for charging a licence fee for the
13 privilege of doing so.

14 It is felt that privilege which
15 has been extended to the City of Toronto is one which
16 could equitably be extended to other large municipalities
17 including the Township of York and that the best way
18 to do that, and our suggestion, would be to make it
19 a general application to all municipalities by including
20 it in the Municipal Act.

21 THE CHAIRMAN: Would you have in
22 mind here asking the industrial section, the owners to
23 pay for the boulevard in front and mark it off for so
24 many cars? Have you got any ideas on that?

25 MR. BOLAND: No, the inclusion of
26 the provision with the by-laws would regulate and
27 control this, would allow us to do that. I imagine
28 that most municipalities would want to do it much in
29 the same way as the City of Toronto.

30 THE CHAIRMAN: Charge?

MR. BOLAND: I wouldn't say fees would
be the same. I would say it would vary from municipality
to municipality.



1
2
3 THE CHAIRMAN: That is a local
4 operation.

5 MR. BOLAND: Local decision for
6 Council.

7 THE CHAIRMAN: Does any member of the
8 Committee wish to ask any questions? You understand
9 what is done in the City of Toronto, in certain sections.
10 They have a paved boulevard and so many cars are allowed
11 to park and I think a fee is charged, not for the
12 parking, for the privilege of having the use of the
13 boulevard. The boulevard belongs to the municipality.

14 MR. BOLAND: I might say, Mr.
15 Chairman, also that the Committee is probably well
16 aware, particularly in commercial and industrial areas,
17 this use of boulevard is being made by commercial and
18 industrial property owners without any compensation
19 going to the Municipality. They just take it over,
20 the boulevard area, and use it for parking. It is a
21 very difficult thing to enforce. The Police are
22 reluctant to do much about it. There is always the
23 problem of where to draw the line and what is the
24 boulevard, what is parking.

25 MR. COWLING: One of the areas where
26 this is being very effective was around the Massey
27 ~~Harris on~~ King Street. I can remember some time ago
28 when all the Massey Harris people parked up and down
29 the boulevard close to everything. It was an awful
30 mess. It was a fire hazard and so on. They provided
parking elsewhere, but I think before that was accomplished
the City Police had quite a job there with parking and



1
2
3 it wasn't too effective. The employees needed some
4 place to park the cars and get them off the streets.
5 I think it was a combination of the two things that the
6 City laid down the law about no parking and the company
7 began to provide some parking in another area, but that
8 was a very messy situation for quite a number of years.
9 Do you have anything like that?

10 MR. MITCHELL: We haven't got enough
11 big industry, I don't think.

12 MR. BOLAND: We are a very small
13 municipality in size, about five thousand, but we do
14 have several areas within the municipality, along
15 Lawrence Avenue which is right in the center of the
16 residential area, but it is zoned industrial and
17 commercial, and this type of parking is quite prevalent
18 there.

19 MR. COWLING: I think it has been
20 done very effectively in Toronto, if the City could
21 provide two or three parking spaces off the street and
22 where there is an asphalt covering away from the mud,
23 provide a couple of parking spaces for people and it
24 doesn't affect the assessment. I should think it could
25 be done without any particular charge. That would be
26 my view, it has been done that way here.

27 THE CHAIRMAN: To allow industry to
28 pay for it.

29 MR. BOLAND: It is part of our
30 suggestion since the problem probably doesn't affect the
smaller municipalities some limit be placed in the
Amendment to the Act. Our suggestion is the municipality
have not less than one hundred thousand, but that may



1
2
3
4 be varied. I don't think in the smaller municipalities
5 it is likely to arise as a problem.

6 Number 2 in the brief is a suggested
7 amendment to Clause 3 of Section 469. This is the section
8 which presently gives the municipality the right to
9 permit owners to make certain uses of the sidewalks,
10 bridges, canopies et cetera over the sidewalk to maintain
11 an approach over the sidewalk. The section as it
12 presently stands ignores the fact, it
13 misses the problem of the remodelling done to under-
14 ground garages where the ramp for this, the ramp
15 commences at the sidewalk line which is still within the
16 street line. The result is the ramp is on the public
17 highway. We in York Township have had one situation
18 we have run into that has resulted in litigation and
19 it is still going on, going on for a couple of years.
20 This situation could be cleared up if the Municipality
21 had the right to allow such use and to regulate such
22 use. As it stands right now the limited type of use
23 of the sidewalk doesn't cover that situation. The
24 Municipality can allow canopies and areas under and
25 openings to sidewalks and highways, but it doesn't
26 apply to this situation where ramps from the sidewalk
27 generally get into what is in fact part of the highway, the
28 travelled portion of the boulevard. The only other
29 suggested change of the existing section is the words
30 in the section that allows the municipality to permit
canopies to project over the sidewalk be changed to
permit the municipalities to allow "canopies that
project over the highway" because in fact, in many cases



1
2
3 buildings are erected with canopies projecting over
4 the highway. The sidewalk has never been constructed.
5 We have run into situations that were when we subsequently
6 construct a sidewalk, the sidewalk comes under the
7 canopy, the existing canopy with no way we can control
8 that situation under the present legislation because
9 the canopy was built over a highway rather than a
10 sidewalk at the time it was put up. They are both
11 rather minor suggestions there.

12 THE CHAIRMAN: Just for clarification?

13 MR. BOLAND: Yes, more or less for
14 clarification.

15 MR. FALLS: Could I add a word
16 on that section. It applies to my work. You appreciate
17 when you pave a street, a street 66 feet wide with
18 the road probably maybe 28 feet wide, people build
19 houses, contractors build houses, garages and stores.
20 We would like authority to control the grades at which they
21 bring out ramps from the garages. They will come way
22 out into the street. If they come in level there is
23 no problem. If they come above you have to go out,
24 sometimes go down -- they get way out in our streets.
25 We put the sidewalk in. We have to adjust up or down
26 or we can't get sidewalks.

27 THE CHAIRMAN: They are on the
28 boulevard.

29 MR. FALLS: On our street. We feel
30 this section could be enlarged to give us that authority
so the engineer could control the work as much as
possible building the public streets, to save a great



1
2
3 deal of money that we have to spend adjusting these
4 things afterwards. There is one thing, the retaining
5 walls -- we have to build retaining walls to the street
6 ourselves. They come along and build a retaining,
7 build a new retaining wall on the street.

8 THE CHAIRMAN: They don't get a
9 permit?

10 MR. FALLS: We have no authority to
11 issue a permit. That causes us some embarrassment.
12 We have to tear the wall out. We don't object to these
13 things if they are built right and built to permit.
14 We don't want to get money. We want to get control
15 so they won't embarrass us.

16 THE CHAIRMAN: Thank you.

17 MR. BOLAND: The next item in the
18 brief was a suggested amendment to Section 463, and the
19 suggested amendment has already been incorporated into
20 the Act by recent legislation.

21 Number four consists of two suggested
22 additions to the definitions in Section 1. One is a
23 definition of the word "boulevard". There is existing
24 some confusion in interpretation of some of the Sections
25 of the Act where "boulevard" is referred to. If one
26 relies on the popular meaning of "boulevard" there is
27 confusion in that some people think "boulevard" is
28 something that runs down the middle of a paved road
29 and others regard "boulevard" as something running
30 along the side of a paved road. Our suggestion is
"boulevard" should be defined. We suggest the definition
as: "'Boulevard' shall mean and include that part of



1
2
3
4 "a highway which is not a travelled
5 "portion of the highway, and which is
6 "not a paved or unpaved roadway,
7 "sidewalk or pathway."

8 THE CHAIRMAN: Is there something
9 in the British Columbia Act where they describe the
10 definition of boulevard, Mr. Taylor?

11 Are there any Ontario statutes that
12 have a definition of boulevard?

13 MR. BOLAND: There is none that I
14 am aware of.

15 MR. TAYLOR: It has highway includes
16 street, road, lane and any other way open to the use
17 of the public. It doesn't include a private right-of-way,
18 private road. That is the definition of the highway
19 but there is no definition of boulevard in the British
20 Columbia statute.

21 MR. BOLAND: There are several
22 sections of the Act which refer to boulevard and there
23 is an area of confusion. It is sometimes hard to
24 interpret the section.

25 The second suggestion is a definition
26 of the word "published". This is a situation which
27 would apply, I think, more to an area, a municipality
28 in Metropolitan Toronto than elsewhere. As the Act
29 reads now if it were strictly interpreted the requirements
30 for publishing of those by-laws -- it requires it is
published in a newspaper which in turn is published
in the municipality. In our municipality the three
main Toronto newspapers are not published. We have a



1
2
3
4 local small weekly newspaper which is published in the
5 municipality and we suggest that the word be defined
6 to mean:

7 " 'Published' means published in a
8 "newspaper in the municipality to
9 "which what is published relates, or
10 "which it affects, or, if there is
11 "no newspaper published in the
12 "municipality having general circula-
13 "tion throughout the municipality,
14 "in a newspaper published in an
15 "adjacent or neighbouring municipality
16 "having general circulation throughout
17 "the municipality to which what is
18 "published relates or which it affects
19 "and 'publication' has a corresponding
20 "meaning."

21 MR. SINGER: I don't think you really
22 need that because there is an English case -- I have
23 forgotten the reference to the name -- in connection
24 with the prosecution against the Globe & Mail and
25 the Telegram in connection with liquor advertising,
26 the definition of the word "published" was discussed.
27 It was generally accepted that this leading authority
28 and the only authority defined published and published
29 means any place where the newspaper is offered for sale.
30 It doesn't necessarily go to the place -- it could be
published in 15 different locations at the same time
as long as it is offered for sale or offered to the
public.



1
2
3
4 MR. BOLAND: That occurred to me
5 in connection with libel or slander, this was the
6 understanding of the Courts when slander is published
7 it doesn't mean actual physically turning out of the
8 document, but the spreading it around. I submit there
9 is still that area which could be very easily cleared
10 up by an amendment to the Act, by specifying directly in
the Act what is meant rather than leaving it.

11 MR. SINGER: Perhaps, but I satisfy
12 myself and the Courts will agree with me on that
13 aspect of it, that is what published means in law. There
14 is only one authority.

15 MR. BOLAND: The next submission,
16 five, in the brief is a suggestion which arises through
17 difficulties which were encountered by the Commissioner
18 of Public Works in flooding of public sewers immediately
19 adjacent to large paved areas, parking lots where the
20 normal absorption of the ground cannot take place
21 because of the hard surface placed there by the owner
22 and instead of being absorbed over a large area it
23 collects over a large area and drains into a local
24 sewer which wasn't intended to provide for heavy sudden
25 onslaughts, give the municipality the right to require
26 the owners of public garages, automobile service stations,
27 apartment houses and other similar commercial buildings
28 who construct large paved areas which would require them
29 to install a storm water tank. This gets into the
30 engineering aspects, but as I understand it, it goes
into the tank and it will be absorbed slowly into the
drain rather than being rushed into the municipal sewer



Boland 229

and causing a back-up. If I haven't explained that clearly perhaps Mr. Falls could answer any question.

THE CHAIRMAN: What would be the real purpose of it?

MR. FALLS: The problem we are facing in the older section of Toronto, sewers were designed 40 years ago and they come along and build apartment houses in these areas and service stations and we have an area, a problem much larger than we ever anticipated when we designed the sewers.

THE CHAIRMAN: These sewers would be designed for residences?

MR. FALLS: More for residence, in main, mostly for residences. We have built these chambers.

THE CHAIRMAN: Have you tried them?

MR. FALLS: Yes, we built them, we have 20 or 30. They have succeeded better than I anticipated. What we do, we take the surface water off the paved area, bring it into these covered chambers. We bring it in with a pipe probably six by nine inches. The size of the chamber depends on the paved area. The size of the orifice to let it out depends on that. We let it out gradually. Our problem comes from the sudden freshet in mid-summer where it comes down like the heavens opening. The sewers couldn't handle it if we didn't have these. We would spend a great deal of money enlarging the present sewers. We bring the water in and it lets it out gradually. I thought this was quite new. I wrote down to the States to tell them and I found



1
2
3
4 out they nearly all use it. I had thought I was the
5 originator.

6 THE CHAIRMAN: Does it go into the
7 storm sewer?

8 MR. FALLS: We let it into combined
9 sewers, into storm or combined sewers. Most of the
10 sewers in our area are combined.

11 MR. THOMAS: What was the construction
12 of the tank?

13 MR. FALLS: Reinforced concrete. I
14 must say I was greatly surprised in the efficiency of
15 these tanks.

16 MR. MORROW: This might be the
17 solution to our high rise apartments in Ottawa. They
18 claim they are flooding our sanitary sewers. If they
19 can do it for freshets maybe they can for sanitary.

20 THE CHAIRMAN: This is very
21 interesting.

22 MR. MORROW: The point is have they
23 got the authority to do it?

24 MR. FALLS: The builders won't
25 co-operate. We want to enforce it. If they want to
26 pave it they can pave and we can't do anything.

27 MR. MORROW: I see.

28 THE CHAIRMAN: It would help in the
29 general system.

30 MR. FALLS: The combined sewers are
all designed for storms. It is the summer frechets
which are worse. It can rain all day and our sewers
can handle it.



1
2
3
4 THE CHAIRMAN: Would the owners
5 maintain it?

6 MR. FALLS: Yes, it is on his property.
7 He maintains -- he installs and maintains it.

8 MR. THOMAS: How many do you have?

9 MR. FALLS: I can't say exactly but
10 I think we have 20 or 30 installed by persuading the
11 builders. We tell them we won't give them a permit,
12 but of course, we have no right to say that.

13 THE CHAIRMAN: These are all in
14 shopping centres?

15 MR. FALLS: In shopping centres. If
16 the department demands they have to provide 100%,
17 the same as under buildings, this is all right, but there
18 are more big parking areas and they pave the whole
19 business and this is grave. We take into account the
20 whole area.

21 MR. MORROW: 100%.

22 MR. FALLS: Yes, we do.

23 THE CHAIRMAN: Yes Mr. Boland.

24 MR. BOLAND: The next suggestion,
25 number 6, is a suggested substitute of present paragraph
26 122, Section 379 (1). This is to combine in one section
27 all the provisions that are presently allowing a
28 municipality to govern the erection and use of signs
29 within the municipality and to slightly expand the
30 present authority. Section 379, 122 provides the
municipality may regulate within any defined area or
areas. It presumably prevents the municipality from
making such regulation for the whole of the municipality.



1
2
3 It was presumably the intention of the Section to
4 require Council setting out certain areas in which they
5 would either prohibit or regulate signs. The new
6 Section 122(a), the first paragraph of the suggested
7 section would allow regulation of signs which project
8 over the highway. That isn't new. That is merely
9 part of the section which I have already referred to,
10 Section 469 which talks about the control of signs
11 projecting over sidewalks and talks about ramps and
12 so forth. It is taking one or two lines of each section,
13 Section 469 that applies to signs, putting it together
14 with 122, which already provides for the regulation
15 or prohibiting of signs. It extends that right to
16 prohibit or regulate signs from the right within a
17 defined area to a right within the whole municipality
18 to either prohibit or regulate within the whole
19 municipality.

18 THE CHAIRMAN: This is what the
19 Committee is going to try and do, to collect Sections
20 dealing with signs and amalgamate them so there wouldn't
21 be that confusion you are suggesting now.

22 MR. MITCHELL: We have quoted a
23 few of them, there, Mr. Chairman:

24 "(c) For requiring the removal of
25 "any sign that is erected or maintained
26 "contrary to the provisions of the
27 "by-law, and for providing that in
28 "default of the removal of any such
29 "sign that the municipality may remove
30 "any such sign at the expense of the
"owner of the land on which such sign

"is erected".

I would say there might possible be another word added in there "collectable and enforced as taxes". We do have a problem collecting, hiring a collection agency to collect these. It would be better as taxes.

THE CHAIRMAN: That is right.

MR. FALLS: One problem we had, the Act stipulates very definitely about signs overhanging the highway -- it says overhanging a sidewalk, a public sidewalk. We want to change it to overhanging the highway. What we are trying to do, we want to include signs that don't -- signs on private property. We have got around this by calling a sign on private property, these great big signs which are back of the highway line -- we want to control those, we have been calling them structures and issuing permits like building permits. That is stretching your imagination to call a sign a structure. They are attached on the sides of buildings, all types of buildings. We want them to stop. We want to bring them under the building laws. A sign on the top of a building, on a truss formation -- we can't check the truss and see it is properly designed to carry the sign. We don't want them tumbling off the roof onto people on the street. We are really enlarging the section there. What we want to do is control the signs.

THE CHAIRMAN: On private property?

MR. BOLAND: As I pointed out under the present section 122 the right to prohibit or regulate

"The result"

I would say that might be possible

the other word added in there "collected data and analysis"

a piece". We do have a number of other things

a collection agency to collect these. It would be

better to have

THE CHAIRMAN: That is right.

MR. TOLSON: I am not sure we had, and

not anticipated very definitely and it might be possible
the highway -- it is very interesting a subject, a problem

sidewalk. We want to change it to overhanging the

highway. What we are trying to do, we want to have a

sign that don't -- signs on private property. We have

got around this by calling a sign on private property

these great big signs which are back of the highway

line -- we want to control these, we have been doing

them structures and building permits like building

permits. That is stretching your imagination to call

a sign a structure. They are attached on the sides of

buildings, all types of buildings. We want them to

stop. We want to bring them under the building laws

sign on the top of a building, or a sign structure

we can't check the lines and see if it is properly designed

to carry the sign. We don't want them coming off

the roof onto people on the street. We are really

using the section there. We want to do it

THE CHAIRMAN: I am not sure

MR. TOLSON: I am not sure

the present section is the sign on the building



1
2
3 the erection is within a defined area. We want to
4 extend it beyond a defined area to the whole municipality
5 so if the Council wishes it may control the whole
6 municipality with one by-law.

7 THE CHAIRMAN: The whole area?

8 MR. BOLAND: Yes.

9 MR. SINGER: Couldn't you treat the
10 whole municipality as an area? There are other sections
11 of the Act that says within the municipality or any
12 defined part thereof. If another section makes a
13 distinction between a municipality and a defined part
14 of a municipality I don't think we could very well
15 in another part of the same Act say it means the whole
16 thing.

16 MR. SINGER: Except the other sections
17 deal with different subjects.

18 MR. BOLAND: There is a further
19 objection to that, that instead of saying within any
20 part it says within any defined part which seems to
21 require you outline the area to which you mean it to
22 apply. I know of one area, the way of getting around
23 it has been adopted, they define all the municipalities
24 except one small area, which is possibly a park, and
25 they have defined part of the municipality and complied
26 strictly with the Section, but I don't think it should
27 be necessary to do that.

26 MR. SINGER: I would be willing to
27 take a chance of designating the whole municipality as
28 part.

29 THE CHAIRMAN: When we try to combine
30



1
2
3
4 all these Sections we will try and make it uniform. If
5 we say the whole or any part, that could easily be
6 part of the section.

7 MR. BOLAND: I think it would avoid
8 confusion if it was used throughout.

9 MR. SINGER: I don't disagree with
10 that.

11 MR. BOLAND: Number 7 of the brief
12 is a suggested amendment to Section 320 of the Act.
13 Section 320 is the section related to Commissions of
14 Enquiry. This section was suggested because of a
15 personal experience in this section by our municipality.
16 It was felt that the provision, the present provision
17 which requires that the expenses of and incidental to
18 the execution of the Commission including the fees and
19 disbursements of the Commissioner shall be fixed and
20 certified by the Minister and forthwith be paid by the
21 municipality -- it is felt that this was rather
22 arbitrary. It is, obviously intended to be arbitrary.
23 Our submission is some relief should be given to the
24 Municipality against excessive bills and our further
25 submission is that the small relief will in no way
26 detract from the authority presently given to the
27 Minister. Our suggested amendment would read:

28 "provided that before the said
29 "expenses are fixed and certified, the
30 "accounts for such expenses shall be
"submitted to the Municipality or
"local board concerned, which shall
"have not less than fifteen days



Boland

236

"thereafter in which to make such
"representations to the Minister
"thereon as it may deem proper".

Our experience was when the bill was submitted to the Minister, certified by the Minister before it was billed, as the result of subsequent representations to the Minister it was reversed, but it was felt it was an ungainly thing to do, to request the Minister to reverse the decision he had already made and rather than that some provision should be set up so that the Municipality can make such submissions to the Minister prior to the actual certification of the account by the Minister. The affect would be exactly as it was in our case. It was recertified.

MR. SINGER: Do you not feel you should perhaps have an opportunity of arguing these things before the taxing officer?

MR. BOLAND: That is the second half of the submission. The first half of the amendment dealt solely with the expenses of the Commission and the Commissioner. The expenses of legal counsel we felt should quite properly be taxed as they are in other client-solicitor dealings.

MR. SINGER: If you deal with that perhaps the first part could be dealt with by the Minister, the Supreme Court or someone like that.

MR. BOLAND: What our suggestion then would be is make the Minister himself a taxing officer.

MR. SINGER: That is a pretty difficult



1
2
3
4 thing to ask of the Minister. He isn't going to sit
5 and hold court.

6 THE CHAIRMAN: He being an elected
7 member -- it is much better having an appointed person
8 do that.

9 MR. BOLAND: I am sure we would have
10 no objection to it. The one thing we wish to overcome...

11 MR. SINGER: You want opportunity
12 to present an argument before it has become a fait
13 accompli. Was there any discussion as to whether the
14 expense should be adopted by the Province rather than
15 the municipality?

16 MR. BOLAND: We didn't have the
17 termidity, but there certainly was a considerable amount
18 of discussion on that. The Council certainly felt that.
19 They felt that for several reasons. They felt that
20 the results of the enquiry in any municipality, the
21 results of the enquiry benefit all other municipalities
22 indirectly and sometimes directly.

23 THE CHAIRMAN: All of the 975
24 municipalities?

25 MR. BOLAND: That was the feeling
26 of our municipality. It would seem that it was a
27 tremendous waste of publicity and waste of newspaper
28 space if all this was devoted only to North York. I
29 think the citizens of the Metropolitan area, at least
30 learned something about local government and I think
some of the Council learned about local government too.
It was at our expense.

MR. SINGER: There was at least one



1
2
3 precedent in that.

4 MR. BOLAND: We examined that one.

5 MR. SINGER: The Municipality of
6 the Township of Clarence, the department paid. I have
7 never been able to get anybody to tell me why.

8 THE CHAIRMAN: You would really have
9 to go into how that arose and why.

10 MR. SINGER: I have tried my best
11 to find out. Nobody will tell me.

12 MR. COWLING: Can't you get an
13 answer from the department?

14 MR. SINGER: No, I have asked
15 several ministers.

16 THE CHAIRMAN: That is municipal.

17 MR. SINGER: Well, I have asked.

18 MR. MORROW: Why don't you have a
19 private conversation.

20 MR. SINGER: I don't want a private
21 conversation on this subject.

22 MR. BOLAND: We were given to under-
23 stand the enquiry continued some two weeks beyond the
24 time that it was necessary to continue after the first
25 week. I have forgotten the exact time -- after the
26 first few days of the enquiry the Commission had
27 established the things for which it had been set up
28 and thereafter it was doing in fact a job for the
29 Department rather than a job as the Commission had been
30 appointed.

A further argument we discussed at
the time in favour of payment by the Province of the cost



1
2
3 of these enquiries is that since the municipalities
4 are the children of the Province both in the sense of
5 federal guidance from the province and in a sense they
6 are, in fact, fathered by the province the province
7 owes a duty of supervision to the municipality throughout
8 its life, and these Commissions when they are made
9 necessary are part of the supervision and should be
10 borne by the province rather than by the municipality.
11 However, we weren't too successful with that argument.

12 MR. THOMAS: That is an argument put
13 forward by Mr. MacDonald from York South. He should
14 be here.

15 THE CHAIRMAN: Which Mr. MacDonald
16 is that?

17 MR. THOMAS: There is only one.

18 MR. BOLAND: A further subsection
19 it is suggested be added to that section and Mr. Singer
20 mentioned it, we think the bills of the solicitor
21 involved should be taxed in the normal manner before
22 a taxing officer of the Supreme Court. I don't think
23 any solicitor would object to it. I don't see any
24 objection whatever to it. It seems only fair where the
25 municipality becomes the client by choice or by force,
26 they are, in fact, the client of the solicitor for the
27 purpose of paying his fees and they should be entitled
28 to the same rights as any other clients. They should
29 be entitled to have his bills taxed before a taxing
30 officer who is familiar with bills.

THE CHAIRMAN: On a County Court
scale?

MR. BOLAND: We suggested



1
2
3
4 MR. SINGER: Division Court scale.

5 MR. BOLAND: I imagine it would be
6 the Supreme Court scale. It is a County Court judge
7 in most cases. I imagine we would receive the argument
8 it is of such importance it would be Supreme Court.

9 There is a suggestion in paragraph
10 9 of our brief, which is a very minor change to Section
11 379(1) on page 186.

12 MR. SINGER: That is the paragraph
13 that allows you to compel the residents to remove snow
14 and ice and if he doesn't you can fine him.

15 MR. BOLAND: That is the one I am
16 trying to remember but I must have the wrong number.
17 The change we are suggesting is that the municipality
18 be allowed to do it.

19 MR. SINGER: This allows the
20 municipality to do it and charge it to the owner.

21 MR. COWLING: We are doing that in
22 Toronto now.

23 MR. SINGER: It is much more
24 successful.

25 MR. COWLING: If you don't clean your
26 snow the municipality does it, they simply do it on
27 account.

28 MR. BOLAND: I believe the authority
29 for that exists at the moment. The suggestion is that
30 the municipality be allowed to do it at the Corporation's
expense. Taxes would be for whole streets rather than
isolated portions of streets.

MR. COWLING: I wouldn't want to do a

MR. BOLAND: I imagine it would be the Supreme Court scale, it is a County Court Judge in most cases. I imagine we would receive the argument it is of such importance it would be Supreme Court. There is a suggestion in paragraph 2 of our brief, which is a very minor change to Section 378.11 on page 186.

MR. SIMPSON: That is the provision that allows you to connect the residents to receive snow and ice and if he doesn't you can fine him.

MR. BOLAND: That is the one I am trying to remember but I must have the wrong number. The change we are suggesting is that the municipality be allowed to do it.

MR. STEVENS: This allows the municipality to do it and charge it to the owner. MR. BOLAND: We are doing that in

MR. COLEMAN: If you don't clear your snow the municipality does it, they simply do it on

MR. BOLAND: I believe the authority or that exists at the moment. The answer on is that the municipality be allowed to do it at the Corporation's expense. Taxes would be for whole streets rather than selected portions of streets.

MR. COLEMAN: I would like to see a



1
2
3 thing like that.

4 MR. BOLAND: I think it is a
5 suggestion that owners like.

6 THE CHAIRMAN: Could you do it by
7 area rather than by municipality.

8 MR. BOLAND: I imagine you could,
9 Mr. Chairman.

10 MR. COWLING: Like they do it in
11 Montreal.

12 MR. BOLAND: I am not familiar with
13 it.

14 MR. COWLING: They clean off streets
15 with a big wide shovel.

16 MR. BOLAND: Sidewalks and all?

17 MR. COWLING: The whole works, and
18 you don't shovel -- don't walk out to the street.

19 THE CHAIRMAN: Charge that an expense
20 to the whole municipality?

21 MR. COWLING: Yes, to the best of
22 my knowledge.

23 MR. BOLAND: Our Council was asked
24 specifically to report on that. They considered
25 seriously the idea of taking the obligation on ourselves,
26 buying equipment, ploughing all the snow and charging
27 it in taxes.

28 MR. COWLING: Didn't you think that
29 would be pretty expensive?

30 MR. BOLAND: It is expensive.

MR. COWLING: Why would any able
bodied men want the municipality to shovel his snow?



1
2
3
4 This is his job. This is his responsibility. Why
5 should all the taxpayers be charged?

6 MR. BOLAND: The answer is we can't
7 do it individually, charge it to them, render an
8 account. If he didn't pay -- it is hit and miss to
9 put it into practice. The collecting is terrible. It
10 is easier to get the outfit or equipment, buy some
11 small dozers, go and clean the whole business.

12 MR. COWLING: Your experience is a
13 lot longer than mine. When I think about my own block,
14 for example, that is all you can visualize. Everybody
15 is out with the snow. There is no necessity of the
16 government, the municipal government going into snow
17 removal and it is really expensive. I think the cost
18 would be tremendous.

19 THE CHAIRMAN: What about the man
20 that hasn't got a sidewalk?

21 MR. BOLAND: I think we should make
22 it zoned, do the streets that have sidewalks.

23 THE CHAIRMAN: That is what I said,
24 do it by areas.

25 MR. FALLS: I agree it is expensive.

26 MR. SINGER: Not as expensive as if
27 you had somebody to do it for you.

28 MR. MORROW: Including driveways?

29 MR. BOLAND: No.

30 MR. MORROW: Just sidewalks.

MR. COWLING: Why should the
municipality become involved?

MR. GORDON: The doctor says I must



Boland

243

1
2
3
4 not shovel snow. We have neighbours on the same block
5 on our street that go to Florida all winter and they
6 just leave the snow for us to walk on.

7 MR. COWLING: It isn't the same
8 in Toronto. You have to clean it.

9 MR. SINGER: In Hamilton when they
10 had the bi-election the sidewalks were covered.

11 MR. COWLING: Didn't the Conservatives
12 look after that?

13 MR. SINGER: That is why they almost
14 got beaten.

15 MR. FALLS: The whole Council is
16 asking for reports. I have scared them on the grounds
17 it is too expensive. I must say the present plan of
18 doing individual places and charge them is just
19 impossible. It is worth more than it is. As this
20 gentleman says that the doctors say if you are 50 don't
21 shovel any more snow, don't do it, let it go. It is
22 serious. We have claims all the time for people slipping
23 on icy sidewalks.

24 MR. MORROW: We plough our sidewalks
25 in Ottawa.

26 THE CHAIRMAN: Mr. Morrow makes a
27 statement

28 MR. MORROW: The Corporation does
29 it. They hire individual little contractors. They used
30 to do it with a horse and plough.

MR. COWLING: You have twice as much
snow as anybody else.

MR. MORROW: They have a fleet of



1
2
3 contractors. They clear the streets and sidewalks.

4 THE CHAIRMAN: Are you sure that
5 appears on the tax rate?

6 MR. MORROW: It is in the general
7 because I don't pay anything special.

8 THE CHAIRMAN: I don't know any
9 authority for that.

10 MR. MORROW: It costs three times
11 as much as Toronto.

12 MR. COWLING: It would be interesting
13 to get in touch with the Montreal people and ask how
14 much they pay, why they do it, how much it costs. They
15 have more snow than we do.

16 MR. MORROW: I will find out about
17 Ottawa.

18 THE CHAIRMAN: Mr. Morrow will find
19 out from Ottawa and we can find out from Montreal.

20 MR. MORROW: They made a study of
21 doing the driveways but the cost was so excessive they
22 gave up.

23 MR. SINGER: There should be some
24 provision to protect people who clear off their driveway
25 from the plough that comes and throws it in.

26 MR. MORROW: I do it 40 or 50 times
27 every winter. I know. I get mine cleared and around
28 comes the plough.

29 MR. BOLAND: The tenth section is
30 a suggested amendment to paragraph 75 of section 379 (1).
That is the section which presently authorizes the
municipality to establish and maintain the system of

contrabands, they clean the streets and sidewalks.
THE CHAIRMAN: And you agree that

appears on the tax rolls?

MR. MORROW: It is in the general

because I don't pay anything special.

THE CHAIRMAN: I don't know any

authority for that.

MR. MORROW: It costs them time

as much as Toronto

MR. CHAIRMAN: It would be interesting

to get in touch with the Montreal people and ask how

much they pay, why they do it, how much it costs. They

have more snow than we do.

MR. MORROW: I will find out about

THE CHAIRMAN: Mr. Morrow will find

out from Ottawa and we can find out from Montreal

MR. MORROW: They make a study of

along the driveways but the cost was so expensive that

MR. CHAIRMAN: I am sorry to hear

provision to protect people who clean off their driveway

from the plow that comes and throws it in.

MR. MORROW: I do it 50 or 60 times

every winter. I get it so covered and buried

under the plow.

MR. CHAIRMAN: The tenth part of it

suggested amendment to paragraph 75 of section 373 (1).

is the section which relates to the cost of

principally to establish and maintain the system of



1
2
3
4 garbage collection. We feel that under the present
5 system there is no provision allowing the municipality
6 to regulate this collection of garbage. They can set
7 up a system, but I notice that just recently one of
8 the municipalities in the area suggested the garbage
9 in their municipality be required to be placed in plastic
bags.

10 MR. SINGER: Etobicoke is very
11 fancy.

12 MR. BOLAND: It is our submission
13 that type of regulation doesn't come with any authority
14 given to the municipality by the words "establish and
15 maintain a system". Our suggestion is the authority
16 be added and adding the words "and regulating" the
17 collection, removal and disposal of garbage. Our
18 submission was made before Etobicoke's plastic bags.
19 It is not because of the plastic bags that we are
20 interested. It is for the purpose of controlling the
21 type of receptacle that is presently used.

22 MR. SINGER: Can't the medical
23 officer do that?

24 MR. BOLAND: If it is a question of
25 health. We have a situation where the health of the
26 citizens is not being menaced, but it is a most
27 unsatisfactory situation.

28 MR. SINGER: Hasn't he power to say
29 garbage must be placed in a closed container.

30 MR. BOLAND: He has under the Public
Health Act, under the by-law that applies to all
municipalities to say closed container. It gives him no



1
2
3
4 power -- he just can't regulate -- merely require it
5 to be kept in a closed container. This could be
6 cardboard boxes which are easily opened by animals.
7 This is what, in fact, is occurring in our municipality.
8 It complies when it is put out. What we would like to
9 do is to regulate the type of material of which the
10 container must be made, such as it is metal rather than
11 cardboard.

12 MR. SINGER: Or plastic.

13 MR. BOLAND: As I say we made our
14 submission before the plastic came in.

15 MR. SINGER: Plastic garbage cans
16 are much lighter, much easier to throw about.

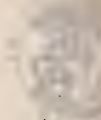
17 MR. BOLAND: As long as we can control
18 the type of receptacle that is used so we can do away
19 with cardboard boxes which are put out in a covered
20 state and don't remain in a covered state.

21 MR. SINGER: You might find the
22 garbage sitting there for an awful long time.

23 MR. MORROW: Our garbage crew
24 controls it, if they are in improper receptacles they
25 just don't take it.

26 MR. BOLAND: We have no way of passing
27 a by-law or telling them what a proper receptacle is.
28 The Council has no authority to pass a by-law saying
29 cardboard containers may not be used.

30 MR. SINGER: If you have garbage in
cardboard containers surely somebody should take it
away. Surely that is what garbagemen are supposed to
do.



cover -- he just can't regulate -- which means in
 to be kept in a closed container. This could be
 cardboard boxes which are really sealed in airtight
 This is what, in fact, is occurring in our country.
 It complies when it is put out. What we would like to
 do is to regulate the type of material which the
 container must be made, such as it is metal rather than

MR. ROSEN: Or plastic.
 MR. ROSEN: No, I say we make one
 submission before the plastic case is.

the iron lighter, which is not to allow about
 MR. ROSEN: As long as we can control
 the type of receptacle that is used so we can to away
 with cardboard boxes which are out in a covered
 state and don't remain in a covered state.

MR. ROSEN: You might find the
 garbage sitting there for so long time.
 MR. ROSEN: Or garbage over
 controls it, if they are in a closed receptacle they
 just don't take it.

MR. ROSEN: He has no way of passing
 a by-law or telling them what a proper receptacle is.
 The Council has no authority to pass a by-law saying
 cardboard containers may not be used.
 MR. ROSEN: It has no power in

cardboard containers unless they are sealed in
 way. Surely that is what was intended and supposed to



Boland

247

1
2
3
4 MR. COWLING: They wouldn't in
5 Toronto. That has to be done the way they say.

6 MR. SINGER: You are living in the
7 wrong municipality.

8 MR. BOLAND: I think this points up our submission.
9 We do remove it. We feel we are obliged to remove it.
10 We would like not to remove it if they are not in
11 proper receptacles but we remove it no matter what
12 condition it is in. We feel it is the obligation of
13 our municipality. If the garbage is put out the
14 obligation is on us to remove it. We have no right
15 to police the type of receptacle used. That works an
16 unfair hardship on the municipality.

17 MR. FALLS: I would like to support
18 what our solicitor has said. In practice this comes
19 under my department, garbage collection. We can amend
20 the by-law under the Health Act, but Etobicoke didn't
21 find it too satisfactory. We need the power to regulate.
22 Mr. Bradley did in the City. I thought that is very
23 fine I will get a by-law. Our solicitor says, no,
24 you have no authority to pass a by-law. I went back
25 to City Solicitor. I asked him where he got the
26 authority for his by-law. He said, I am little skeptical
27 of the authority. We have it and nobody has questioned
28 it. I am all behind you if you can get the authority
29 in there that would help us too.

30 MR. SINGER: The Council who takes
this on is asking for trouble. It almost cost the Reeve
in Etobicoke his job. There were so many regulations,
the box must be so high, and the garbageman has a list



Mr. G. W. ...
Toronto. That has to be done the way they say.
Mr. ...
wrong municipality.

Mr. ...
we do remove it. We feel we are obliged to remove it.
We would like not to remove it if they can get it
proper references but we remove it no matter what
condition it is in. We feel it is the collection of
our municipality. In the process of getting the
obligation is on us to remove it. We have no right
to police the type of material that is put in it
unfairly on the municipality.

Mr. ...
what our solicitor has said, in practice this comes

the by-law under the health act, but it is a slight
find it too satisfactory. It is not the way to regulate
Mr. ...
then I will get a by-law. The solicitor said that
you have no authority to pass a by-law. I want to
to City Solicitor. I asked him where he got the
authority for his by-law. He said, I am not a lawyer.
of the authority. We have it and nobody has questioned
I am all right and I can get the by-law.

There that would help me out.
Mr. ...
tell on it asking for samples. It is not a case for a
in Windsor this year. There are no more regulations.
the box must be; we will, and the regulation is a lot



1
2
3 of regulations as they went to each door, and the
4 housewife came out screaming they will vote against
5 him.

6 MR. FALLS: The City has a practical
7 by-law.

8 MR. COWLING: Mr. Chairman, I would
9 certainly think if there is a good regulation like they
10 have in Toronto it should be in other places.

11 MR. SINGER: That doesn't follow.

12 MR. COWLING: People put out the
13 worst looking heap of junk to be gathered up by the
14 garbagemen. If you don't get this it would make the
15 garbageman's job impossible. There should be a
16 regulation you have to put it out in a decent way so
17 it can be quickly taken away. If you don't want to
18 co-operate I think that is just too bad. I would think
19 the average citizen will support you in that.

20 MR. BOLAND: The municipality should
21 be given a regulating power, and I would submit the
22 best protection in the world against the municipality
23 going too far in their regulations of the collection of
24 garbage would be the citizens themselves because they
25 are most conscious about matters such as the collection
26 of garbage. I think Commissioner Falls hears about it
27 on days that the collection of garbage is altered,
28 holidays. The citizens are really very keenly aware
29 of that most essential service they get.

30 MR. FALLS: The citizen is important.
We like to keep them happy. We bend over backwards to
keep them happy. It is disgraceful some of the things
they put out for garbage. They should be going in the



1 sewer, not in the garbage.

2
3
4 THE CHAIRMAN: How far would you
5 go if you were regulating? Would you tell them what
6 they could put in the garbage cans?

7 MR. FALLS: They shouldn't put
8 excrement in. I will go that far. I think the City
9 has an excellent by-law.

10 MR. COWLING: When we were in
11 California on the air pollution they had incinerators
12 in every back yard, and they just burned everything
13 and the smell sometimes was pretty terrific. They had
14 a system where they put everything in garbage cans and
15 a private contractor picks it up, and the things in the
can are put in the incinerator.

16 MR. GORDON: There is no garbage
17 collection for tin cans and that kind of thing. You
18 have to dispose of it yourself.

19 MR. MORROW: They take everything
20 but wood. When I throw branches of trees out they
refuse to take them.

21 MR. COWLING: And do you keep trying?

22 MR. BOLAND: That was the suggested
23 amendment to that statute. That finishes the amendment
24 to the Municipal Act itself. Before going on to the
25 suggestions for amendments to the related acts I would
26 like to make another comment.

27 THE CHAIRMAN: We will have a short
28 recess.

29 ---Short recess.
30



1
2
3 THE CHAIRMAN: Please continue.

4 MR. BOLAND: Before I leave the
5 amendments to the Municipal Act and go on to Related
6 Acts perhaps the Committee would allow me to refer to
7 something not included in the brief. I may be
8 inaccurate, but it is as a result of the recent amendment
9 to the Municipal Act in 1961. It is an addition that
10 was made by recent legislation of Section 35. That
11 is the section dealing with interest of Council members
12 and Section 3, subsection 3 of Section 35 with this
13 series of circumstances which are not to be deemed
14 to constitute conflict of interest as subsection 1:
15 "Shall not be deemed to apply to a person by reason
16 of his being a shareholder". The most recent
17 addition is paragraph "1" of that subsection, subsection
18 1, shall not be deemed to apply by reason of his having
19 entered into an agreement in respect of the acquisition
20 of land by the Corporation for road widening or curb
21 adjustment...for any such purpose". Prior to the
22 passing of this amendment I would have been prepared
23 to say where a councillor has his land expropriated
24 since it is beyond his control this is no contract of
25 the sort that would set up a conflict of interest.
26 Since this has gone out of its way to spell out that
27 this is not a conflict of interest I am puzzled. I
28 would expect the expropriation for the laying out of
29 road would probably be included in the section. They
30 have accepted the situation that the land is expropriated
for road widening or curb adjustment, and for some
reason they have left that out.



1
2
3
4 MR. COWLING: Don't we talk about
5 that.

6 THE CHAIRMAN: We talk about
7 expropriation for sewers.

8 MR. BOLAND: Any type of expropriation.
9 I am puzzled what the situation is when a Councillor
10 for the municipality -- we have a situation at the
11 moment where the municipality is contemplating opening
12 up a lane. It is expropriating property for that
13 purpose. I haven't the abstract, but it is coming close
14 to property owned by the Reeve.

15 MR. COWLING: Isn't it all right
16 if he doesn't vote on it.

17 MR. BOLAND: That is the other
18 section.

19 THE CHAIRMAN: I think that is the
20 consideration of any form of expropriation of land
21 for the purposes of the municipality. You can for
22 sewers.

23 MR. MITCHELL: The schools were
24 expropriating land just across the street. It could
25 have been on his side.

26 MR. BOLAND: It seems rather strange
27 that the amendment should specifically protect the
28 Councillor whose lands are expropriated for the purposes
29 of road widening or curb adjustment and not have the
30 same protection if the land is expropriated for the
purposes of the opening of the road. If it is necessary
to protect for road widening it should be necessary to
give the same protection.



Boland

252

1
2
3
4 MR. MORROW: There may be restrictions
5 anyhow.

6 THE CHAIRMAN: That point is well
7 taken.

8 MR. BOLAND: Perhaps if I could go
9 on to the other suggested amendments in the brief.
10 There is one suggested amendment to the Local Improvement
11 Act. That is an amendment to subsection 1 of Section 29.
12 That is the Section that provides where a flankage of
13 a lot becomes frontage special assessment may be
14 put against the part that is formerly flankage and has
15 now become frontage, and the corollary has not been
16 added, that the special assessment, where the special
17 assessment has already been placed against the
18 property on what was the frontage, that special
19 assessment may be remitted by the Corporation. The
20 situation could arise where a lot where the frontage,
21 a portion is assessed as frontage where the side on
22 a corner is frontage and a little improvement has been
23 done on that part of the street and it is assessed
24 against that frontage and as the result by the erection
25 of a house on the lot that frontage becomes flankage
26 the owner of the land may find himself once again
27 being specially assessed and the Act gives the Council
28 the specific right to change flankage to frontage but
29 doesn't give the corollary right to a change what had
30 formerly been assessed as frontage now being flankage
and give a rebate to the owner of that land of the
portion which would normally be the portion for
frontage. It is confusing. I probably haven't explained



1
2
3
4 it.

5 MR. THOMAS: I think that is a very
6 good point we should consider.

7 MR. MORROW: When they go one way
8 we should go two.

9 MR. BOLAND: We have the right to
10 put cost on and we should have the right to take it
11 off where it is causing double assessment.

12 THE CHAIRMAN: What would be your
13 opinion, Mr. Boland, of the matter of local improvements,
14 if the Local Improvement Act was part of the Municipal
15 Act and you did all this work by areas?

16 MR. BOLAND: I would be in favour
17 of it being part of the Municipal Act. The more acts
18 which affect municipalities which are consolidated
19 the better I would like it.

20 THE CHAIRMAN: You would like it
21 all in one book?

22 MR. BOLAND: I am constantly in fear
23 of finding a totally unrelated act applies and I have
24 neglected to note its application.

25 MR. COWLING: It is one of the main
26 jobs of this Committee to consolidate all these dealing
27 with particular things into one section. Wouldn't
28 that make life so easy you would have nothing to do
29 hardly?

30 MR. BOLAND: I wouldn't go that far.
It would certainly simplify things.

MR. COWLING: I noticed a cartoon
in the paper, a couple of fellows in the same situation,



1
2
3
4 they were talking about big problems and said when we
5 get them all solved we are out of a job, let's keep
6 them going.

7 THE CHAIRMAN: What do you think in
8 laying of sidewalks, laying by areas with an area
9 charge instead of a local improvement charge?

10 MR. MORROW: We had a situation
11 in Ottawa like that. I approached the Department of
12 Municipal Affairs on it. They wanted to do all the
13 subdivision areas near the schools. There was a war
14 on whether they could go down the street and charge
15 the whole area. They amended the Act to permit it to
16 be done by areas.

17 MR. BOLAND: It would work a
18 hardship on some municipalities. You have large areas
19 where local improvement -- this type of thing is
20 disappearing with subdivision agreement, where due to
21 expansion of municipalities there are large areas in
22 which street after street eventually has to be done.
23 I don't think there is any grave hardship to treat it
24 as an area and charge accordingly and do it as an
25 area. In a municipality such as ours where we are and
26 have been for some years almost completely built up
27 and developed and the local improvements we are doing
28 today are by way of clearing up tag ends, then it would
29 probably work a hardship. It would be up to local
30 Council. I can see it in a municipality which has
room to expand and has expanded.

MR. MITCHELL: May I say something
on that, Mr. Chairman. From an accountant's point of



1
2
3 view you would have a fantastic schedule to keep track
4 of. I presume you would be on assessment at the
5 present time. From the accounting profession, if you
6 start that by areas you would have a continuous flow
7 to be taken care of every year and every improvement.
8 I would rather see it on the frontage basis.

9 THE CHAIRMAN: There is a growing
10 demand for having the service by areas instead of local
11 improvement.

12 MR. FALLS: I think it is in new
13 areas, but not in old areas. As our solicitor said
14 we are cleaning up tag ends. We have had this policy
15 for 50 years, to change over -- it isn't fair to these
16 people who paid the other way. It is as our solicitor
17 says, as Mr. Chairman says -- we have areas in York
18 Township -- 40 years ago our boundary was Victoria
19 Park Boulevard. We had areas for sewers and water. We
20 had school areas. We had fire areas. We had water
21 areas. We had sewer areas. There were all the mill
22 rates to be added up. We thought we were going to the
23 city one day. We put the whole works together. We
24 thought we were going to the city and we would be stuck
25 with all these areas, so we eliminated them.

26 MR. COWLING: Was going into the city
27 that bad?

28 MR. FALLS: We didn't know. We were
29 all packed up to go.

30 MR. MITCHELL: We haven't unpacked
our bags yet.

MR. BOLAND: The next suggested



1
2
3
4 amendment is section 30 of the Planning Act. Section
5 30 is the section that authorizes, that controls zoning,
6 allows the municipality to control zoning. The suggested
7 amendment would give the Municipal Corporation authority
8 to do what is done without authority today, at least
9 by our municipality, and I suspect by many other
10 municipalities. What happens, an applicant will
11 approach the Planning Board and Council with a
12 suggestion for a development in an area where the
13 development will require an amendment to the zoning.
14 The suggestion is accepted by Planning Board as a good
15 idea provided certain things are done. What we would
16 like to have is authority to put in a supplementary
17 agreement in consideration of council amending the
18 zoning to allow the builders to erect or use the land
19 for certain purposes. The Council could protect
20 through agreement what the Planning Board and Council
21 have decided are safeguards so they won't go beyond
22 the bounds.

23 Perhaps if I gave an example, the
24 change of zoning to a manufacturing zone to allow a
25 manufacturing concern to go in adjacent to a commercial
26 area which may be a perfectly good thing from a zoning
27 and planning point of view provided they are not
28 allowed to run wild within the present limits of the
29 zoning by-laws, M zone requirements. In other words
30 they are approached with a certain type of use that is
fine, it fits in nicely with the commercial area, but
we exceed to their request, amend the zoning to M
then they are free without any restriction to use it for



1
2
3
4 any M use, which may not be the type of M use that the
5 Board or the Council would even consider amending the
6 zoning by-law for.

7 THE CHAIRMAN: Couldn't you do it
8 by an amending by-law?

9 MR. BOLAND: In some respects you
10 could. There are other requirements that may not be
11 in the by-law.

12 THE CHAIRMAN: What?

13 MR. BOLAND: There is one currently
14 suggested to Council at the present time which amounts,
15 in fact, to a subdivision, but isn't a subdivision.
16 It is the erection of a series of blocks of apartments--
17 it would be all right-- owned by one person building
18 these five block of high rise apartments. If the area
19 in which it is proposed were presently R-4 which allows
20 apartment buildings there would be no need to make
21 any sort of agreement with the municipality at all. They
22 could erect any type of apartment in that particular
23 area. Council want control over the subdivision.
24 It isn't a subdivision. That is the problem. Over
25 the proposal, and it is because of the nature of the
26 proposal made to the Council and Planning Board they
27 have agreed to rezone. Once having rezoned it we have
28 no protection against them changing some of the things
29 in their proposal. It is a much too elaborate thing
30 to include in an amending by-law. The amending by-law
could provide R-4 and it could be used for high rise
apartments. It can't go on and take in all the
proposals, the lot, the placement on the lot and things



1
2
3
4 like that. We have run into a lengthy by-law by
5 itself, amendment to the existing by-law. It probably
6 wouldn't receive approval at the Municipal Board.

7 THE CHAIRMAN: You maybe would like
8 a more complete site plan agreement.

9 MR. BOLAND: Yes, that is right.

10 MR. FALLS: I would like to augment
11 that to say in some cases, take a residential area and
12 rezone for high rise apartments and concentrate a great
13 many people in there, and then our sanitary sewers are
14 not -- this is what the City of Toronto obtained under
15 special Act, this very thing, sewers and water, which
16 we would like to be able to have, an agreement with the
17 subdivider -- we have the power to have a subdivision
18 agreement, but when they come later and ask for an
19 amendment to the zoning in an area that changes the
20 whole character of the thing, and the services we have
21 to provide sometimes in roadways and things. The cost
22 of all these things, we should be protected. The City
23 have an Act, as far as my department is concerned, they
24 have got what I want under a special Act.

25 MR. MORROW: We got it in Ottawa
26 two years ago.

27 THE CHAIRMAN: The City of Ottawa
28 got it.

29 MR. BOLAND: I will go on with the
30 other one, it is a very small amendment to Section 30,
subsection 7 and merely defines "plans", the meaning
of plans as meaning plans which are in sufficient detail
to clearly indicate the use of the proposed building or



1 structure. I think that is self explanatory.

2
3
4 The next suggested amendment is
5 to Section 30. It is a change which would allow the
6 municipality to pass a by-law to require an applicant
7 for an amendment to put a sum up before such application
8 is dealt with. That is purely to defray the cost to
9 the municipality which usually will exceed \$100.00 by
10 the time they pay newspaper advertising.

11 MR. MORROW: I am all in favour, cut
12 down applicants.

13 MR. BOLAND: I am not sure it would
14 cut down the number of applicants, it would cut down
15 the expenses to the municipality. We pay considerably
16 more than what we are presently taking.

17 Number 4 is a suggested amendment
18 to Section 31 subsection 1. This couldn't make much
19 of a change in the existing section. It is just the
20 addition of the words "and structures". As a matter
21 of fact it appears to have been overlooked, a minor
22 matter. It says "for regulating the size and strength...
23 all buildings to be erected". That gives us authority
24 in regulation of buildings. It goes on to state we
25 can require plans for all buildings, and finally
26 towards the end of the paragraph it authorizes the
27 refusal of a permit for any building or structure.
28 Structures are not buildings and the word structure
29 has been left out earlier.

30 MR. MORROW: Can you give me an
example?

THE CHAIRMAN: Of structure.



1
2
3
4 MR. BOLAND: Large signs, not normal
5 signs, but those large signs, animated, electric, neon
6 lights, enlarged corridors and sidewalks and that
7 sort of things, building inspectors should be in a
8 position to approve plans of before erected. That is
9 one example. I think of a structure as being not used
10 for the occupancy of people for living purposes or
11 something of that nature. Signs are the only thing
12 that come to mind. It could by itself justify it.

13 In clause c we define what we
14 consider "structure". We are asking this section,
15 subsection 1 of 31, which is the heart of our building
16 authority, that we add three little subsections to it,
17 we add the word structure. Then we have suggested
18 b c and d. A is a provision we would like to have
19 with regard to having certified plan of the property
20 because now the zoning by-laws are so intricate with
21 the front yard and the side yard, set-backs and unless
22 the building inspector can require a land survey they
23 come along after the building, the surveyors come and
24 find it is three inches out in the side yard.

25 MR. SINGER: What you are asking for,
26 streets, building and property lines surrounding the
27 property -- aren't you asking for a survey of four
28 properties, not just one?

29 MR. BOLAND: It is really what is
30 adjacent to the land.

MR. SINGER: What you have got here,
that would multiply the cost of the survey very
substantially.



1
2
3
4 MR. BOLAND: I think what we mean,
5 a land survey of the parcel to show all of the land
6 adjacent, not the whole of the adjoining parcel.

7 MR. SINGER: I got caught on one
8 of these things, they wanted me to survey the whole
9 street and the bill was up from \$200.00 to \$1,000.00.

10 MR. BOLAND: The section could be
11 cleared by requiring only the part of the adjoining lot
12 immediately abutting.

13 THE CHAIRMAN: Adjacent.

14 MR. BOLAND: Adjacent, and only that
15 part. It is quite common for the surveyor to show
16 a portion of the building on the other side that is
17 immediately adjacent to the building that is actually
18 being surveyed.

19 Subsection d which is added there
20 provides "that a permit shall expire unless construction
21 of the building or structure has been bona fide commenced
22 within a period of six months after the date the permit
23 is issued. As a matter of fact we found we have been
24 able to do this by incorporating that portion of the
25 National Building Code. The Act now provides that
26 we can incorporate any part of the building code in
27 the by-law. We include that section of the building
28 code. That prevents getting a permit and sitting on it.
29 They couldn't sit on it as long as they want. Under
30 the National Building Code -- what our Council has done
is to take that portion of the code. I believe the
term is six months and if the construction has not been
started the permit expires. For those municipalities

MR. BELMONT: I think that we mean,

a land survey of the parcel to show all of the land adjacent, not the whole of the adjoining parcel.

MR. STANLEY: I got caught on one

of these things, they wanted me to survey the whole street and the bill was up from \$200.00 to \$1,000.00.

MR. BELMONT: The section could be

clarified by requiring only the part of the adjoining lot

THE CHAIRMAN: Adjacent.

MR. BELMONT: Adjacent, and only that

part. It is quite common for the surveyor to show a portion of the building on the other side that is immediately adjacent to the building that is actually being surveyed.

Subsection 1 which is added there

provides "that a permit shall expire unless construction of the building or structure has been bona fide commenced within a period of six months after the date the permit

is issued. As a matter of fact we found we have been

able to do this by incorporating that portion of the

National Building Code. The Act now provides that

we can incorporate any part of the building code in

the by-law. We include that section of the building

code. That prevents getting a permit and sitting on it.

They couldn't sit on it as long as they want. Under

the National Building Code -- what our Council has done

is to take that portion of the code. I believe the

term is six months and if the construction has not been

started the permit expires. For these reasons.



1
2
3
4 which are not adopting the National Building Code there
5 is authority to do so.

6 The fifth suggestion is an
7 amendment to Paragraph 15 of Section 31. I think this perhaps
8 has already been taken care of by your recent amendment. Yes,
9 it is. This is the section authorizing refusal of
10 a permit for any building or structure, it used to
11 read of the by-law. We suggested it read of any by-law.
12 the recent amendment has taken it even further than
13 that.

14 THE CHAIRMAN: Other municipalities
15 too?

16 MR. BOLAND: I presume that means
17 adjacent municipalities.

18 THE CHAIRMAN: And that could be
19 in a zoning by-law?

20 MR. BOLAND: 31(1), paragraph 16
21 of 31(1) -- I neglected to bring along my Planning
22 Act. Paragraph 16 of Section 31 authorizes the
23 pulling down or repairing or renewing at the expense
24 of the owner of any building fence scaffolding or
25 erection that by reason of its ruinous or dilapidated
26 state, faulty construction or otherwise is in an
27 unsafe condition as regards danger from fire or
28 risk of accident. We suggest the insertion at the
29 end of "or is in such a condition of deterioration that
30 economical repairs are impracticable". This gives
the municipality the right to do something about the
property owner who allows his building to deteriorate
almost to the point where it becomes a fire menace and



1
2
3 fire marshall can do something.

4 MR. COWLING: The City of Toronto....

5 MR. BOLAND: There are several
6 municipalities that have obtained special legislation.
7 Kitchener is the most recent I can think of.

8 MR. SINGER: As broadly worded as
9 that?

10 MR. BOLAND: They have it a little
11 broader. They were given broader authority to decide
12 what should come down and the owner of the property was
13 given 30 days to appeal to a County Court judge.

14 MR. SINGER: This concerns me
15 because the way you have this worded the municipality
16 can be very arbitrary and the owner has no recourse
17 at all. It is a decision only made by the municipality
18 and once they have made it the owner is out of luck.

19 MR. COWLING: Shouldn't this be....

20 MR. MORROW: Always for the Courts.
21 General legislation, I wonder why we wouldn't keep it
22 on that basis.

23 THE CHAIRMAN: What we are going
24 to do is search the special legislation in regard to
25 all the amendments to see if we can clarify them.

26 MR. SINGER: Mr. Taylor is going
27 to do this by next week?

28 THE CHAIRMAN: Maybe tomorrow.

29 MR. COWLING: That will be considered
30 then.

MR. BOLAND: In direct relation to
Mr. Singer's suggestion about the broad authority the



1
2
3
4 municipality has in such matters we feel that authority
5 is not precise enough. It may be broad. It is not
6 precise as to what we can do about exercising our
7 authority where an owner flaunts this in the face of
8 the municipality. We have had situations like this
9 for several years. I checked with the -- I believe
10 the City of Kitchener, they had a recent private act,
11 the Clerk, he advised me that they had a situation
12 where they applied that private by-law. This is one
13 isolated case but it causes a great deal of embarrassment
14 to Council because of continuous complaints from rate-
15 payers who are under the impression the municipality
16 is voluntarily not doing anything about this. When
17 you come to a practical approach to it everybody is
18 left in the dark. Once the municipality says tear it
19 down can the Commissioner of Works then enter on the
20 land, tear it down, and be assured he has some
21 protection against the owner in carrying out instructions
22 of Council. With that in mind we suggested the
23 amendment to section 31 by adding paragraph 24 as
24 follows:

22 "Where the council has notified the
23 "owner in writing of its intention to
24 "pull down or remove any building,
25 "erection, fence, or scaffolding under
26 "the authority of paragraph 15 or 16
27 "of this section--those are the two
28 "Sections authorizing tearing down --
29 "and if the owner fails to remove
30 "the same within fifteen (15) days



1
2
3
4 "after the giving of such notice, the
5 "corporation and its servants and
6 "agents shall not be liable to any
7 "damages arising out of the work of
8 "such removal except for gross
9 "negligence."

10 That is to protect against damages
11 for trespass and the sort of situation that the Village
12 of Long Branch ran into not too long ago after they
13 had authority from Council and found they were
14 trespassing, in breach of the by-law. We have shrunk
15 away from court action against the most deliberate
16 breach of our building or zoning by-laws because we
17 feel there was no protection from the municipality in
18 regard to damages for trespass or for the actual
19 damage to the property itself. Certainly there should
20 be no protection for being negligent or destroying
21 other parts of the property when removing the offending
22 property. There should be a concomitant authority to
23 the municipality in exercising that authority. We
24 submit that is the way in which it can be acceptable
25 for the municipality. That is our submission at the
26 present time. There is no protection to the municipality
27 attempting to exercise its rights under paragraphs
28 15 and 16.

29 MR. SINGER: Yes, I appreciate that.
30 I think maybe this whole group of sections have to
be looked at very thoroughly. There should be some
opportunity for the owner to disagree before some
authority who can say that the municipality is wrong.



1
2
3 THE CHAIRMAN: I didn't think it
4 went so far as to the rights to enter on.

5 MR. BOLAND: It does not.

6 MR. SINGER: I am concerned, the
7 municipality could, if given these broad powers act
8 in a very arbitrary manner, no municipal council I
9 can think of now but it is possible it might come in
10 the future.

11 THE CHAIRMAN: After what we heard
12 in the morning we have to press the Municipal Council
13 to do it right now.

14 MR. BOLAND: It may be that the
15 answer would be something in the nature of private
16 legislation.

17 MR. SINGER: It may well be.

18 MR. BOLAND: The owner of the property
19 is given a period to object and if the objection is
20 registered it is mandatory to appear before the County
21 Court judge who will then decide whether the municipality
22 has the authority. That would certainly offer
23 protection.

24 MR. FALLS: I would like to support
25 that idea. We have arbitrary powers like this we are
26 most hesitant about exercising. I am afraid to tell
27 them to go on a man's property and start tearing down
28 a building. This gets so serious the whole area is
29 up in arms because we haven't acted. It is a very
30 nasty situation. I think if we could have some
protection like that, if the man has a chance to have
his side of the story before some court we could go in



1
2
3
4 legally without being accused of trespass and damage.
5 This kind of scares everybody.

6 MR. BOLAND: The final suggestion
7 is an amendment to section 31 again by inserting at
8 the end of paragraph 25 to give the municipality
9 authority to pass by-laws "To require that two exits
10 be provided from each suite or separate set of rooms
11 in all buildings used for residential purposes". This,
12 in fact, is generally required where the situation is
13 discovered. It is generally required by the Fire
14 Marshall's inspectors in self-contained dwellings.

15 MR. SINGER: You mean each apartment
16 in an apartment building have two exits?

17 MR. BOLAND: That would certainly
18 be the case here.

19 MR. SINGER: There are an awful lot
20 of brand new apartment buildings that only have one
21 exit.

22 MR. BOLAND: I haven't thought of
23 apartment buildings. In the case of the modern
24 building they always have two exits, but not for each
25 suite.

26 MR. FALLS: We have the duplex,
27 fourplex, sixplex -- we insist on exits from each suite,
28 two exits, because you have no halls, no hall system
29 there, no common hall like you have in an apartment
30 house where you have halls running along, you have
exits at each end. Truthfully there isn't an exit,
two exits from each suite. That is quite right. It
is not in force in apartment houses. In these smaller



1
2
3
4 units, multiple units we have been insisting on this
5 right along. We haven't authority for it.

6 THE CHAIRMAN: If you had a sixplex
7 would you do the same thing?

8 MR. FALLS: Yes, a sixplex -- a
9 sixplex invariably has a partition down the middle, --
10 as a matter of fact with three on each side, your
11 triplex, three on one on the triplex -- it is dangerous.
12 We require a double exit from each suite.

13 MR. COWLING: You mean back door
14 and front door in each one of the duplex or triplex,
15 just two doors?

16 MR. SINGER: Six doors.

17 MR. FALLS: Six doors for a triplex.

18 MR. COWLING: Let's take one of the
19 triplex.

20 MR. FALLS: There is a stairwell
21 at the front, the entrance, just one door and we require
22 the same thing at the rear, inside the building so
23 there are two ways out that building and everyone of
24 those suites have a way out. Supposing one end is
25 blocked with fire, they have the other way.

26 MR. COWLING: Don't they

27 MR. FALLS: In an apartment true,
28 you have the service of a long common corridor with
29 an exit at this end and an exit at that end, but not
30 an exit in the apartment, from each suite, not two
from each suite.

MR. BOLAND: As it is worded now
it would require it.

units, multiple units we have been installing on this right alone. We haven't anticipated too far.

would you to the same thing?

MR. TALLER: Yes, a single unit.

simplex invariably has a connection over the middle, -- as a matter of fact with three or four sides, you know, simplex, three on one on the other side, it is dangerous. We require a double exit from each end.

MR. COLLIER: You mean each end?

and front door in each one of the duplex or triplex, just two doors?

MR. TALLER: Six doors.

MR. TALLER: Six doors for a triplex.

MR. COLLIER: Let's take one of the

triplex.

MR. TALLER: There is a stairway.

at the front, the entrance, just one door and we require the same thing at the rear, inside the building so there are two ways out from building, and everyone at those exits have a way out. Supposing one end is blocked with fire, they have the other way.

MR. COLLIER: Would you say...

MR. TALLER: In an apartment house,

you have the service of a long common corridor with an exit at each end and an exit at that end, but you exit in the apartment, then you would not want

MR. COLLIER: We are working now

to avoid people in



1
2
3 MR. FALLS: It should be reworded.

4 MR. BOLAND: Those are all the
5 submissions in the brief.

6 If I may have one further moment,
7 another recent amendment to certificates of compliance,
8 they are now allowed by reason of the amendment to
9 Section 31, are by this amendment limited only to cases
10 where the building has been commenced without the
11 permit or where after the permit has been obtained
12 the building is altered so as not to conform with the
13 plan submitted for the permit. At the present time
14 it doesn't provide for the certificate of compliance
15 to be issued to anybody who applies for a building
16 permit. It is an added authority. If it was extended
17 to all people obtaining a building permit it would be
18 a great help to building inspectors.

19 MR. SINGER: Don't you get into
20 very nice little legal complications if your certificate
21 of compliance is issued contrary to the by-laws?

22 MR. BOLAND: The recent amendment
23 for a certificate of compliance ignores

24 MR. SINGER: The law is quite clear,
25 a building permit even though issued in the best of
26 faith, if it isn't in accordance with the by-laws is
27 of no value. That is quite clear.

28 MR. BOLAND: Our situation is if we
29 could get a building permit and erect a building the
30 inspector quite frequently finds himself in the position
there is no authority for him to enter unless the
builder agrees or the owner agrees to let him do so
and make a complete inspection and make sure there has

MR. TALLER: It is a matter of review.

MR. TALLER: These are all the

submissions in the case.

If I may have one further moment,

another recent amendment to certification of compliance,

they are now allowed by reason of the amendment to

Section 31, one by this amendment listed only to cases

where the building has been commenced without the

permit or where after the permit has been obtained

the building is allowed so as not to conform with the

plan submitted for the permit. At the present time

it doesn't provide for the certification of compliance

to be issued to anybody who applies for a building

permit. It is an added authority. If it was extended

to all people obtaining a building permit it would be

a great help to building inspectors.

MR. TALLER: Would you get into

very nice little legal complications in your certificate

of compliance is issued contrary to the law?

MR. TALLER: The recent amendment

to a certificate of compliance ignores the

MR. TALLER: The law is quite clear,

a building permit even though issued in the face of

fact, if it is in accordance with the by-law is

of no value. That is quite clear.

MR. TALLER: The situation is if we

could get a building permit and then a building

inspector quite frequently finds himself in the position

there is no authority for him to enter a house the

owner agrees to let him in to

and make a complete inspection and then a no show has



1
2
3 compliance with the plans and permits. There is
4 periodic inspections made, but the final inspection
5 is at the pleasure of the owner of the builder. Once
6 the building is completed, complete and capable of
7 being locked there is no way for the building
8 inspector to get in unless with the permission of the
9 owner or builder. Even if he is capable of getting in
10 he has no way of knowing whether this complies with
11 -- there is no way, he has no remedy against the
12 builder. If he says you will have to take my word I
13 complied with the plans, I am not willing to let you
14 in -- if he had to have a certificate of compliance
15 then you would have to let him inspect.

16 MR. COWLING: Wasn't there some
17 change allowing building

18 THE CHAIRMAN: Not for that purpose.

19 MR. BOLAND: This certificate of
20 compliance would do that. I think some problems arise
21 where a person has erected a building with a permit, if
22 a certificate of compliance is given to him in error
23 and it is thereafter discovered that he didn't comply,
24 I think some problem would arise. It would be that
25 added protection that the inspector needs to enforce
26 his inspections which he doesn't have now. The odd
27 builder or owner discovers these things and the
28 inspector has to hope that the final inspection would
29 have revealed everything all right if he had been able
30 to make it.

Thank you very much, gentlemen.

THE CHAIRMAN: Before you go, Mr.



Boland

271

Boland, there is a letter dated June 23rd, 1961. Would you read it, Mrs. Rowan.

MRS. ROWAN:

Mrs. H.G. Rowan,
Secretary,
Select Committee on the Municipal
Act and Related Acts,
Room 377, Parliament Buildings,
Toronto 5, Ontario.

Dear Mrs. Rowan:

I am forwarding herewith for the information of the Select Committee appointed to review the Municipal Act and Related Acts, the following motion which was passed at a meeting of the Committee of General Purposes of the Township of York held on Monday, June 19th, 1961:

"Moved by Mr. Stollard: That York Township Council request the Select Committee on Legislation to consider that there be legislation establishing a set of Council procedures suitable for all the various communities, both large and small, with a minimum framework of the fundamental requirements, to provide basic needs of the least of our municipalities while at the same time this basic framework should be capable of being expanded to take into account the expanding responsibilities of the larger municipalities. Carried. (Messrs. Barnett, Goodfellow, Rowland, Stollard, Taylor and Mr. White voting yea: Messrs.



Boland

272

Mould, Saunders and Mrs. Gell voting
nay.)

Yours very truly,
(signed)
H.G. Courtman,
Township Clerk.

MR. SINGER: There is a good one
in favour of local autonomy.

MR. BOLAND: This motion was made
in the Committee just about the time I started with
the Township, about a year ago.

MR. SINGER: Surely it isn't reasonable
to expect rules for every Council in Ontario to be laid
down by legislation.

THE CHAIRMAN: Has York Township a
procedures by-law?

MR. BOLAND: A very ancient one, and
we have a new procedural by-law which has been in
existence for two years and it has been held up because
Council has had some disagreement about the procedure
as the result of some of the statements made in the
Courts.

MR. SINGER: A busy urban council
could meet once a week or sometimes twice a week and
a small rural council would meet once a month.

MR. BOLAND: I have had occasion
since the resolution was passed, over the past year to
know what the councillor who made this motion considers
to be the problem. I can't see there is a problem
myself. He is concerned that the delegation of power
by municipal council is improper, which of course is
quite true. He regard the forming of a committee or



1
2
3 reliance in any way by council upon a committee as
4 the delegation of council authority. It has been
5 my position that as long as the committee is given
6 power merely to make recommendations there hasn't
7 been any delegation of any power, any more than there
8 is delegation of authority of parliament by setting
9 up a committee such as this committee. This is the
10 approach he cares to take. This is a crystalization
11 of his point of view. He would like the government to
12 say the committee exists legally. That is my
13 understanding.

14 MR. MITCHELL: Could I say something
15 not in our brief, Section 139 of the Assessment Act,
16 subsection 1, paragraph G:

17 "An application to the court of
18 "revision for the cancellation,
19 "reduction or refund of taxes levied
20 "in the year in respect of which the
21 "application is made may be made by
22 "any person liable for business tax
23 "who has not carried on during a part
24 "of the year only, or was not carried
25 "on for a period of less than three
26 "months during the year by reason
27 "of repairs to or renovation of the
28 "premises in which the business was
29 "carried on."

30 Under that section you can get revision of your business
taxes if you cease carrying on your business. I think
it should go further for residential and commercial rates,

reliance in any way by the Government as to the
the delegation of authority. It has been
my position that as long as the Government is given
power merely to make recommendations, and that it has
been any delegation of any power, and that it has
is delegation of authority of Parliament by
up a committee such as this committee. There is in
approach he cared to take. There is a delegation
of his point of view. It would then be given power to
say the committee makes a recommendation. That is my
understanding.

MR. WILKINS: Could I say something
not in our brief, Section 139 of the Agreement?

"An application to the court of
"provision for the maintenance,
"provision on behalf of 'wages' paid
"in the year in respect of which the
"provision is made may be made in
"any person liable for maintenance and
"who has not received on that account
"of the year only, or who has received
"on for a period of less than three
"months during the year in question
"of persons to or for maintenance of the
"provision is made in the following cases:

under that section you can get provision on your behalf
cases if you cease receiving or your liability is
to obtain a further provision for maintenance on your behalf



1
2
3 I don't think there is anything if you revert to
4 residential, I don't think there is any provision to
5 give the benefit of the reduced mill rate.

6 MR. MORROW: Isn't business separate
7 from residential completely?

8 MR. SINGER: What he is talking
9 about, apparently the premises has been carried on as
10 a commercial business and you can't change from
11 commercial to residential rate.

12 MR. MITCHELL: I am sorry, it is
13 a change entirely to residential, these people are
14 using the premises. We collect taxes. They should
15 get a reduction and as far as I can see I don't think
16 they can apply to a Court of Revision to get it.

17 THE CHAIRMAN: That is quite right.
18 There is no business tax on residential property.

19 MR. MITCHELL: A combination, sir,
20 partial business, partial residential and ceases carrying
21 on business two months after the beginning of the year.
22 He is assessed the previous year and taxed and the
23 thing reverts to strictly residential. He can't get
24 a reduction of his commercial rate.

25 MR. SINGER: He could be stuck for
26 a portion of the year, for two months.

27 MR. MORROW: If something could
28 be taken off.

29 MR. MITCHELL: I don't think you
30 can read that into that. I don't think I can get
anything out of it. I don't think they can get a
reduction. I may be wrong.



1
2
3
4 THE CHAIRMAN: We will give that
5 some consideration.

6 MR. MITCHELL: There is another section,
7 ~~under~~ Section 119, I give a tax certificate showing
8 current taxes owing. We can charge twenty-five cents.
9 I get a tax certificate showing arrears. We get \$1.00.
10 I shudder every time I send one off. We get twenty-five
11 cents. We get a solicitor closing and wanting a
12 tax certificate for current taxes and I send a certificate,
13 I have no way in my office I can check to see if
14 anything has come in. I am on a limb. I think it
15 is worth more than twenty-five cents.

16 MR. SINGER: You are not guaranteeing
17 it.

18 MR. MITCHELL: There is a great deal
19 of work.

20 MR. SINGER: Actually the solicitor,
21 if he gets one showing arrears and there is payment
22 made, certainly the solicitor on the other side is
23 going to be aware of it.

24 MR. MITCHELL: Arrears.

25 MR. SINGER: If you show arrears and
26 in fact the payment is on its way to you, that is your
27 worry, that will be well known, I would think, to the
28 vendor's solicitor who would tell it to the purchaser's
29 solicitor on closing.

30 MR. MITCHELL: I had a case
yesterday, a \$72.00 payment was made. I wasn't aware
of it and obviously they had forgotten about it. Thank
you very much.

100

100

THE CHAIRMAN: In the first place,

1. The first thing is that the

Section 119, I think, is a very important

current law. It is a law that is

I get a tax certificate for my property. It is

I am not sure if I am one of the few who

center. We get a collection of the

tax certificate for current taxes and a

I have no way in my mind of a

anything has come to me. I am on a

is not more than that. I think

MR. CHAIRMAN: Now the last

MR. CHAIRMAN: There is a

MR. CHAIRMAN: Actually the

it is not as simple as it seems and

and, certainly, it is a

going to be aware of it.

MR. CHAIRMAN: Another

MR. CHAIRMAN: If you

in fact the movement is on the

now, that will be well known. I

factory's collection will tell

MR. CHAIRMAN: I think

waterway, I think, I

at the same time, they

Now, with



1
2
3
4 MR. FALLS: Could I get one little
5 item in, in Section 473 of the Municipal Act, Chapter
6 20 relating to highways. I wonder if it would be
7 possible to have a section put in there absolutely
8 prohibiting the erection of fences, shrubs and trees
9 at the intersection of streets. These things are a
hazard to traffic.

10 MR. MORROW: I thought that was
11 prohibited, I thought that the Highway Act cut them
12 down?

13 MR. FALLS: We have authority to
14 take them down. We haven't direct authority to prohibit
15 them. In fact, the section -- there is a whole section
16 which apparently starts off in encouraging trees in the
17 early days, makes payment for the planting of trees
18 and encouraging them. We have to be very careful and
19 go through all the routine. I think there should be
20 a section definitely in the Municipal Act which states
no trees, no shrubs, no fences at the intersection of
streets.

21 THE CHAIRMAN: There is a lot of law
22 dealing with trees on highways.

23 MR. COWLING: Do you have any trouble
24 getting trees removed?

25 MR. FALLS: We can get them down.
26 It is a long road. You have to pass a by-law for each
27 tree, give the man ten days' notice and he gets a
28 chance of compensation. He may not have planted the
29 tree, he may not have spent a penny on the tree, still
30 he can get us for compensation.

Mr. FARRIS: Could I ask one little

question, in Section 403 of the Municipal Act, Chapter

20 relating to highways, I wonder if it would be

possible to have a section put in there absolutely

prohibiting the erection of fences, shrubs and trees

at the intersection of streets. These things are a

nuisance to traffic.

MR. MORROW: I thought that was

prohibited, I thought that the Highway Act was then

Mr. FARRIS: We have authority to

take them down. We haven't directed any way to prohibit

them. In fact, the section as there is a whole section

which apparently starts off in encouraging trees in the

early days, makes payment for the planting of trees

and encouraging them. We have to be very careful and

go through all the language. I don't think there should be

a section definitely in the Municipal Act which states

no trees, no shrubs, no fences at the intersection of

THE CHAIRMAN: There is a lot of law

relating with trees on highways.

MR. MORROW: Do you have any counsel

it is a long road. You are to have a by-law for each

tree, give the man ten days notice and he gets a

chance of compensation. He may not have planted it

there, he may not have planted it at the time.

we can get us for compensation.



1
2
3
4 MR. MORROW: They have the right
5 to pass a by-law authorizing the planting of trees
6 in the beginning.

7 MR. FALLS: We usually use that to
8 regulate the type of tree. You don't want a soft-wood
9 tree. You want slow growing trees. You don't want
10 trees there at all.

11 THE CHAIRMAN: We appreciate very
12 much your coming down to this meeting, and if in the
13 future you have any further suggestions to make we
14 would be glad to hear them.

15 MR. BOLAND: Thank you very much for
16 hearing us.

17
18
19
20
21
22
23
24
25
26
27
28
29
30 ---Whereupon the meeting adjourned.



1
2
3
4 ---On commencing at 10:45 a.m.

5
6 THE CHAIRMAN: We have, now, the
7 Ontario Association of Real Estate Boards. Mr.
8 Sanderson, would you like to introduce the members
9 of your committee?

10 MR. SANDERSON: We have, sitting
11 at my far right, Mr. Charles Purnell from Hamilton,
12 a real estate broker for forty years, sat on the
13 Court of Revision in Hamilton for 25 years, and gave
14 expert testimony on court cases for 30 years.

15 Mr. Churchill, the Research Director
16 for Toronto Real Estate Board and member of the
17 Ontario Association of Real Estate Boards, Legislation
18 and Licence Law Sub-Committee.

19 Mr. Tom Dowling, member of Ontario
20 Association Realtor and presently sitting on the
21 Hamilton Court of Revision.

22 Mr. Purnell would be very pleased
23 if he could speak on the submissions on The Assessment
24 Act.

25 THE CHAIRMAN: Mr. Purnell, would
26 you like to come up; and Mr. Sanderson would you come
27 up too.

28 You have a list of the members of
29 the Committee.

30 MR. PURNELL: Mr. Chairman and
gentlemen, there are many points in The Assessment Act
that one could labour or even go as far as to quibble.
We have tried to pick up four or five cogent points that

THE CHAIRMAN: We have, now, the

Ontario Association of Real Estate Agents, Mr.

Anderson, would you like to introduce the members

of your committee?

MR. ANDERSON: We have, sitting

at my far right, Mr. Charles Funnell from Hamilton,

a real estate broker for forty years, and on the

Court of Revision in Hamilton for 15 years, and gave

expert testimony on court cases for 30 years.

Mr. Conroy, the Research Director

for Toronto Real Estate Board and member of the

Ontario Association of Real Estate Boards, Legislation

and License Law Sub-Committee.

Mr. Tom Dowling, member of Ontario

Association Realtor and presently sitting on the

Hamilton Court of Revision

Mr. Funnell would be very pleased

if he could speak on the subject of the Assessment

Act

THE CHAIRMAN: Mr. Funnell, would

you like to introduce the members of your committee?

You have a list of the members of

the Committee.

entlemen, there are many points in the Assessment Act

that one could labor on every one of them for days.

We have tried to pick up some of the points that



1
2
3 we feel, and have felt for many years, have been badly
4 in need of amending, and the first one is the matter
5 of arriving at value.

6 Now, at the present time, the
7 Act was quite clear in stating that land shall be
8 assessed at its actual value and the buildings as
9 they increase the value of the land, with the
10 qualification that a tribunal or the assessor may take
11 into consideration, in the total value, the rental
12 value and a number of other items with an added rider
13 of any other matter or factor affecting the value.
14 In our submission, we are going to say that the value
15 set by the assessor should be what we term current
16 market value. That could be present sale value or
17 actual value as now stated in the Act. So that, what
18 we wish to achieve, Mr. Chairman and gentlemen, does
19 not require any change of the Act at all. The Act
20 is there, but how is this going to work in practice.

21 The assessors are, by direction of
22 the Municipal Department, using 1940 replacement values
23 as regards business. We have the factor of access.

24 (a) The Act.

25 (b) The direction of the Municipal
26 Department to assess buildings on 1940 values.

27 (c) A Manual issued by the
28 Department of Municipal Affairs which bears no relation
29 either to actual value today or 1940 values, and has
30 no authority in law. The manual is not law, it is a
direction.

To go further, we have the assessor's



1
2
3 ideas of how he will interpret the business of placing
4 value; and some use the Department manual, some use
5 a manual of their own devising, and some use no manual
6 at all. So, I would like to quote this point -- this
7 case I have here. It was in Welland County, Stamford
8 Township in 1955, and I don't think it is necessary
9 for me to name names. So, do you mind if I say the
10 so and so county assessor has made an assessment
11 appraisal by using the manual prepared by himself, and the
12 so and so township assessor working under the
13 county assessor gave evidence that he used page 73 of
14 the manual. So that, in the same municipality and
15 in the same hearing before the Municipal Board we
16 have two assessors giving different ideas as to how
17 they arrived at that. We suggest, gentlemen, that
18 while it may take time and it may require some education,
19 that the present system is quite haphazard and chaotic
20 and that the only true measure of value is the actual
21 value of the property; and valuation is not an exact
22 science, as far as human ingenuity can devise, at the
23 time the assessment is made.

24 Recommencing, the danger of
25 fluctuations in assessments, or the possibility or the
26 probability, we suggest that the assessment be not
27 made by actual value, that a uniform percentage of
28 value be set for the assessment purpose. It may be
29 60% as many people regard assessments today. A lot
30 of people come into the Court of Revision and say they
assess at 60%. Firstly, we do suggest the actual
value be ascertained in all cases, and secondly that
a percentage lower than actual value be used. I



1
2
3
4 personally would have another reason for making that
5 percentage lower, and much lower. A sudden increase
6 in all the assessments in the Province of Ontario,
7 which I have found during my experience in the City
8 of Hamilton, does not prove to the lowering of tax
9 rates which people are led to believe. We find that
10 once the tax rate is lower, it may be 30, 40, 50 mills,
11 that the Council are prone to think the tax rate is
12 so low they raise one here.

13 I think, Mr. Chairman, that is all
14 I can say on that one point. I will go on any other
15 point in any order.

16 THE CHAIRMAN: This is an important
17 point discussed in many jurisdictions. For instance,
18 in the State of California, and in their expropriation
19 and compensation, they use that market value the same
20 as you suggest. They think that a proper basis to
21 determine what a person should get for their land on
22 expropriation, and perhaps it could be used for
23 assessment purposes. But, doesn't the words "actual
24 value" mean true value of property?

25 MR. PURNELL: I certainly think so,
26 and we are only using terms, market value or sale value
27 or actual value.

28 MR. MORROW: It means what you would
29 get for it if you sold it today.

30 MR. PURNELL: Mr. Chairman, there
is no need to change the Act. All there is need to
do is enforce it.

MR. THOMAS: You mentioned different



1
2
3
4 opinions of two assessors in one county. Do you think
5 it is wise that the county assessor would have control
6 of the whole thing instead of the little municipalities,
7 being around about \$1,000.00 or \$1,500.00 -- for a
8 person capable of doing a real good job -- have a
9 county assessor over the whole county doing the job.

10 MR. PURNELL: The county assessor
11 is usually a man of some experience and ability and
12 who is, in most cases, well able to guide those
13 township assessors. I don't pretend to know anything
14 about law and I stick to my own field as far as
15 possible. The county assessor cannot do anything if
16 the township assessor were to take the stand -- you
17 can't tell me what to do, I have taken my oath.

18 MR. THOMAS: The county assessor
19 can appeal it, and I have known a case of that taking
20 place. But, I think if we had a county assessor over
21 a whole county to do the small municipalities, I think
22 perhaps we could have a more efficient system of
23 assessing.

24 THE CHAIRMAN: He is referring to
25 Section 93a of The Assessment Act, where the county
26 assessor does all the assessing, and which by-law is
27 passed with unanimous vote of all the members of
28 Council.

29 MR. PURNELL: I think it would be
30 a good idea because in my experience the county assessor
does the job.

MR. THOMAS: Good.

THE CHAIRMAN: Any further questions,



1
2
3
4 Committee?

5 MR. PURNELL: Our second point which
6 also we consider extremely important, and I am going
7 to preface what I have to say about it -- it refers
8 to the permanency of assessments appealed, to not
9 allow assessors, as at present, to restore -- an
10 assessment be reduced the following year. In another
11 case that I appeared on before Judge Clement in
12 Kitchener, he says:

13 "The Judge approaches these appeals
14 "in the thought that courts do not
15 "lightly interfere with the assess-
16 "ments of an assessor, but must do so
17 "nevertheless if the evidence adduced
18 "should be sufficiently cogent."

19 That is the opinion of the Judge,
20 and when you have the appraisers from the Court of
21 Revision to the judges to the Municipal Board -- and
22 I have had the opportunity of appearing before many
23 of them many times, and I have always been impressed
24 with the serious way that the one present member of
25 the Municipal Board described to me a few months ago --
26 this interference of the lives of people through
27 findings, and he takes it very serious. We have a
28 very elaborate set-up which is designed to do justice
29 to the taxpayer whereby he can appeal to the Court of
30 Revision, and if not satisfied go to the county judge,
and if not satisfied go to the Municipal Board, and if
on a point of law he is not satisfied he can go to
Supreme Court. Except on the point of law, the assessor



1
2
3
4 may upset that whole proceeding the following year
5 no matter what time and expense or trouble the appellant
6 may have found.

7 I have seen cases, gentlemen, which
8 I can only describe as shocking, in my own experience,
9 of this utter disregard of a decision of the tribunal
10 in some instances. When these appeals have reference
11 to large manufacturing concerns expensive lawyers and
12 experts are hired and expenses run into thousands of
13 dollars. It seems quite unreasonable to me, and our
14 association with an assessor may upset that whole
15 applecart.

16 In regard to the attitude of the
17 assessor, Mr. Noble -- I am not making a tirade with
18 assessors, I have worked with them harmoniously for
19 years. Let's be realistic -- there are certain things
20 that can only be brought out by stating the facts.
21 The present president of the Assessors Association takes
22 exception to our brief and he particularly took that
23 point I raised now of the assessors' rights, and they
24 do have that right at the present time, and he says:

25 "In regard to the suggestion that an
26 "assessor should be bound to a three-
27 "year fixed assessment of any
28 "judicial decision which reduces
29 "assessments, we trust you have noted
30 "Bill No. 79 of the third session
"of the 26th Legislature, being an
"Act to amend the Department of
"Municipal Affairs Act which permits

...that whole ...
no matter what ... and ... of the ...

I have ...
I can only describe as ...
of this ...
in some instances ...
to have manufacturing ...
experts are hired and ...
dollars. It seems quite ...
... with an ...

In regard to the ...
... I am not ...
... I have ...
... there are ...
that can only be ...
the present ...
exception to our ...
and it is ...
to have the ...
"In regard to the ...
... of ...

"...
"...
"...
"...
"...
"...



1
2
3
4 "the Department to order the entire
5 "assessment role be set aside and
6 "direct the new assessment to be
7 "made when a decision or decisions
8 "of the Court of Revision, the county
9 "judge, or the Municipal Board has
10 "so replaced or altered the role as
11 "to make it inequitable in respect
12 "of a substantial number of the
13 "persons."

14 I take it that means that there are
15 so many manufactured assessments that it is high time
16 a new assessment was made to bring them all in line.
17 He goes on to say:

18 "The assessor in effect is doing
19 "the very same thing in re-establishing
20 "a value reduced by the courts to the
21 "detriment of other taxpayers. A
22 "bad decision should not be permitted
23 "to lie dormant for three years."

24 In whose opinion a bad decision?

25 A tribunal has said, the assessment. The philosophy of
26 some assessors, not all, is that a decision to reduce
27 is an affront and a bad decision. I speak very
28 seriously and tacitly of this because of my own
29 experience. I was at a series of assessment appeals
30 around 1955 involving several million dollars of
assessment. Not being in court one day when a decision
was made, I met the assessor the next morning and I
said to him: "How did it go?" He said the operation

SECRET

This document is dated the 15th

of the month of May, 1955.

Subject: The new assessment to be

made of the situation in the

area of the country of the

United States of America.

As required by the

Department of the Interior.

"It is requested that

you

make it that your

very much appreciated assistance

in the new assessment

be made.

The

very much appreciated

assistance of the

Department of the

Interior should not be

lost.

In

the new assessment, the

Department of the

Interior should not be

lost.

In the new assessment,

the Department of the

Interior should not be

lost.

In the new assessment,

the Department of the



1
2
3
4 was successful, meaning to say the assessment was
5 reduced. But, he said, the patient will eventually die.
6 I knew the cynicism behind that, that the assessment
7 was going to be raised the next year.

8 I appeared in the case of Judge
9 Clement, which I quoted, where he takes the business of
10 making changes of assessment was serious. As my client,
11 as a manufacturer, and I were leaving the court, the
12 elected member of that municipal council said, "It
13 will do you no good, we will raise it next year". Those
14 cases, in my opinion, are in a great minority. I
15 don't think they happen very often.

16 MR. MORROW: Whenever we discussed
17 this matter with the Deputy Minister of Municipal
18 Affairs, he agreed that there were some pretty
19 vindictive assessors. He thought that the cases were
20 so few in a thousand, he doubted very much that such
21 a drastic law should be brought in.

22 What would you say, in your opinion,
23 would be the prevalency of these cases?

24 MR. PURNELL: There are certain
25 kinds of crimes that are so peculiar and sometimes so
26 horrible that they are not often committed. If they are,
27 we legislate against them.

28 MR. MORROW: Whether they are there
29 or not?

30 MR. PURNELL: Whether they are there.

MR. SINGER: In statistical
anyalysis, the big assessments are appealed and it is
worth it. By and large the ones where the assessor gets



1
2
3
4 mad because he can lose so much in one foul slip. The
5 average home, change in assessment does not amount
6 to much. I don't disagree with you.

7 MR. THOMAS: Is that letter from
8 the Association of Assessors?

9 MR. PURNELL: It is written on the
10 letterhead of the Institute of Municipal Assessors
11 of Ontario, signed by Mr. Noble.

12 MR. THOMAS: I would imagine he
13 would get permission. That seems to be the consensus
14 of opinion of the assessors attending that meeting.

15 MR. PURNELL: I don't think I can
16 say any more on it. I did have a case where an
17 assessment was reduced on a home and I can't find what---
18 The assessment was \$5,100.00, a raise to \$5,724.00,
19 \$624.00 more than the appealed assessment.

20 MR. THOMAS: Had there been any
21 improvements to the home?

22 MR. PURNELL: No.

23 The Municipal Board then reduced it
24 back to \$5,150.00, and then a settlement was made with
25 this owner and the Assessment Department, and the
26 assessment now stands at \$4,800.00. What conceivable
27 point was made in the case of a small \$5,100.00
28 assessment, to put that homeowner to that trouble. Now,
29 one needs to say there is any vindictiveness. I
30 don't see any practical reason why it would be done.
I think I have said enough about it. I hope I made my
point.

THE CHAIRMAN: Any questions by the



Committee?

MR. PURNELL: Number 3 point, it means that if our suggestions are carried out that the law be enforced as respect to actual value, the present manual is of no use and a new manual, which would follow the Act, would have to be devised.

Point number 4, I can briefly explain this way. That a chain grocery store only occupying corner or any site with parking lot has to pay a business tax on parking lot. Owner of a plaza, who rents to someone, on which the store was built pays no business tax on the parking area. The City of Hamilton took that through as far as it could go and got defeated. In the opinion of the Association, it is a rather unfair situation -- either you charge the individual owner of one store for business assessment on his parking or you charge the other. The owner of the plaza may have to allot, by ratio, the cost of business assessment according to square foot area occupied by tenants. The main point is, this type of operation is taking the business assessor. We respectfully suggest that the amendment be made.

MR. MORROW: The owner of the plaza seems to think he is paying through the amount of rent he is paying.

THE CHAIRMAN: I was going to ask Mr. Purnell how he could work out any kind of formula whereby the tenants in the shopping centres should be assessed when all the parking lot is used by all the people. There is no restrictive area, that you are



1
2
3
4 operating a small store. A parking plaza, you have
5 an advantage of people parking in the whole parking
6 area, that the total taxes are taken into consideration.
7 As a matter of fact, the taxes go up, the rent goes
8 up. You come along now and tell the tenants they
9 have to pay a tax over and above what they are paying
10 in their long leases.

11 MR. PURNELL: No. I think that
12 tax should be on the owner of the plaza because he is
13 collecting the cost of parking from the tenants.

14 MR. MORROW: He should be paying a
15 business tax.

16 MR. SINGER: You are establishing
17 the principle when you say that business tax is not
18 levied on owner, it is levied on user.

19 MR. PURNELL: It might be a new
20 principle with the idea, Mr. Singer. Plazas are new
21 types of merchandising and operation and form new
22 ideas, I submit.

23 MR. SINGER: I don't think there
24 is a very difficult introduction. There is the
25 representation of the whole basis of business tax, to
26 an equal percentage. Then, it could be very simply
27 done in relation to the amount of rented space and
28 parking lot. If you get into difficulty in the present
29 system, you apply a different percentage.

30 MR. COWLING: As it is today, there
might be 10 or 100 different organizations and each
one pays his own business tax on the plaza. You simply
expand that to include certain parking area to the



1
2
3 individual and tax on business operation and --- In
4 the plaza you would be allotted so much parking space
5 and you pay your business tax on that parking space.

6 MR. MORROW: How do you know how
7 much?

8 MR. COWLING: I have allotted four
9 parking spaces and the fellow next door is a big
10 operator and he has a dozen. You simply pay it on
11 parking space allotted and include it in regular business
12 tax.

13 THE CHAIRMAN: That is not the
14 situation in a shopping plaza. They are used on
15 Sundays and used on nights. As a matter of fact, they
16 are used by people who park their cars all day and take
17 the subway. It is public property. People use it to
18 go to church on Sundays.

19 MR. COWLING: Yes, there are people
20 who rent it and own it and feel it is a good way of
21 advertising, and that is why they move into a plaza
22 and pay larger rent. People moving into a plaza
23 anticipate paying more taxes.

24 MR. THOMAS: Wouldn't the question
25 of having accommodation figure?

26 THE CHAIRMAN: You can't restrict
27 any parking areas. You can park any place you like
28 and shop any place you like.

29 MR. COWLING: Here is a plaza with
30 ten businesses in it. Very simply, there is a dry
goods store, supermarket, insurance business, and law
firm, and they are all different sizes, and they all have



1
2
3
4 required different parking accommodation. It would
5 be a very simple thing to break down the total parking
6 area into ten businesses and charge them on their
7 business tax.

8 MR. PURNELL: Sometimes small people
9 can be traffic generators.

10 MR. COWLING: At the time of signing
11 your lease, you simply say you are paying on the
12 basis of six parking spaces.

13 THE CHAIRMAN: In an ordinary plaza,
14 there is no limitation.

15 MR. COWLING: Make the limitation
16 at the time you sign the lease. The owner and man
17 leasing the property, they make arrangement with the
18 owner and the deal is consumated on that basis. I
19 wonder if the owner should be responsible for all the
20 parking space -- that is another problem. Believe
21 me, the whole area of plazas and shopping areas is
22 certainly going to bring in new ideas on assessment.

23 MR. PURNELL: I would hope that we
24 could leave the thought that it is necessary to amend
25 the Act to cover the situation I have described, that
26 if that thought registered we would be satisfied. The
27 way of working it out is going to be a little knotty,
28 but I am sure it can be worked out. I am trying to
29 get the Committee to agree we are right.

30 THE CHAIRMAN: There is a question,
Mr. Purnell, about the land assessment on these parking
lots. Have you any evidence to show to the Committee,
the assessment on the land and the parking areas, and



1
2
3 the parking is greater than the land assessment on
4 the small businesses.

5 MR. PURNELL: You come back to the
6 actual value and when you start juggling because it is
7 used for the same use but by a different user --
8 Loblaws for instance here will be paying a certain
9 assessment per front foot on the land and next door
10 in the plaza a person would be paying a higher
11 assessment. That doesn't make sense to me. If that
12 is the way they are trying to get the business tax,
13 I think it is all wrong. I think the basis of business
14 tax should be well established.

15 THE CHAIRMAN: I don't think land
16 in a modern plaza, the parking area, has a greater
17 value than parking in a smaller area.

18 MR. PURNELL: Yes, it has decidedly.
19 The point I am trying to make -- it may have a greater
20 value I agree because of the concentrated use, but
21 I don't consider that is a way to collect business tax.
22 If it has a greater value, put it on and still get the
23 business tax.

24 THE CHAIRMAN: What would you do,
25 Mr. Purnell, where you had industries that created
26 an area such as the plaza -- would you attempt to put
27 a business assessment on their parking lot too?

28 MR. PURNELL: That principle was
29 a very contentious one in the mid 1950's in Welland
30 County in connection with Atlas Steel and Electro
Metallurgical and a great many other steel companies,
and the land was divided into various sections -- first



1
2
3 of all the land which had the buildings, the land for
4 scrapping, and surely the parking, I think land that
5 was used for expansion which was not being used at all
6 for expansion. In these cases Judge Fuller and the
7 Municipal Board only exempted from business tax the
8 land held for expansion. They put business tax on all
9 the rest. That is the best way I can answer that
10 question.

11 THE CHAIRMAN: There has been a demand
12 from some parties that apartment houses should pay
13 business tax. If that was made as an amendment to The
14 Assessment Act, would you then include the parking
15 area around the apartment?

16 MR. PURNELL: In the first place,
17 I don't think the parking is subject to business tax.
18 That would only make a higher rent for the tenants
19 because the owners are going to collect it, and
20 indirectly you are making a business out of it.

21 MR. SINGER: It is a business.

22 MR. PURNELL: It is a business.

23 MR. SINGER: It is a business the
24 same as a hotel or restaurant or shoe store or anything
25 else. Good business too.

26 THE CHAIRMAN: Rooming houses do not
27 pay, and there are several municipalities that have
28 sent in briefs here that apartment houses should be
29 assessed for business tax.

30 MR. COWLING: Why do you say they
should not be?

MR. PURNELL: I have never heard of it



1
2
3 before, and half an hour's argument may change my mind.
4 The thought that struck me immediately is that the
5 working man tenant is going to have to pay a business
6 tax. He is not going to pay direct but he is going to
7 pay indirect.

8 MR. SINGER: The consumer pays it
9 when he buys something from the store.

10 THE CHAIRMAN: That is the reverse
11 of what you say, Mr. Purnell, that the plaza let the
12 owner pay the business tax, not the tenants.

13 MR. EVANS: He pays business tax on
14 gross sales of these people in this plaza. The business
15 that uses the parking spaces, the more business tax
16 he pays.

17 THE CHAIRMAN: You are changing the
18 whole Assessment Act.

19 MR. COWLING: That is what Mr.
20 Purnell said, shopping centres are new and may have to
21 be brought up to date to new ideas.

22 THE CHAIRMAN: Just while we are on
23 that business tax. The Committee made and is making a
24 special study of business assessment, and we have
25 reports from almost 400. That is a question with other
26 jurisdictions. For instance, in the United States they
27 do not have it. We do not know of a state in the United
28 States. They don't have a business tax. The eastern
29 provinces, very very few. British Columbia, they say
30 the municipality may pass a by-law for business tax.
Our Act says "They shall do ---" Some of the western
provinces on basis of rental value, others on amount of



1
2
3 sale.

4
5 MR. PURNELL: There has been a great
6 deal of argument and it goes back a long way. I said
7 in this very room, in 1942, and Mr. Gordon --- was
8 sitting where you are. We were talking about the same
9 thing and the question arose as to the business tax
10 being levied on the space occupied and the percentages
11 of business tax paid tries to temper the man who has
12 to use a large space and not necessarily has any more
13 business than, say, a professional man. To me personally,
14 the business assessment has appealed to me as a rather
15 harsh levy to be levied at all.

16 THE CHAIRMAN: The basis.

17 MR. PURNELL: Yes. We haven't dealt
18 with it and it is my personal opinion.

19 MR. COWLING: Can you see the
20 justification in any taxes? Aren't they all just about
21 like that?

22 MR. PURNELL: You pay a realty tax
23 and you don't pay a business tax on the amount of business
24 you do, and whether you make a profit or not it is
25 stationary, and if you have a bad year you pay it.
26 Now, surely, the tax which is imposed by the provincial
27 and the federal governments on income ought to be sufficient
28 to take care of the principle that is involved in
29 business tax.

30 MR. EVANS: That is exactly my point.
The more you make the more you should pay business tax.
You lose money one year and you still have to pay a
business tax on principle.

Mr. PURVIS: There has been a great

deal of argument and it goes back a long way. I said
in this very room, in 1945, and in Boston --- and
sitting where you are. We were talking about the same
thing and the question arose as to the desirability
being levied on the space occupied and the amount of
of business tax paid prior to when the war was over
to use a large space and not necessarily for any more
business than, say, a professional man. To me personally
the business assessment was applied to me as a regular
business levy to be levied at all.

The Chairman: The matter.

Mr. PURVIS: Yes, we haven't come

with it and it is my personal opinion.

Mr. DOWNING: Can you see the

justification in any tax? I want to say all that about
like that?

Mr. PURVIS: You pay a penalty to

and you don't pay a business tax on the amount of business
you do, and whether you make a profit or not it is
arbitrary, and if you have a big year you pay it.
Now, surely, the tax which is imposed by the principal
of the Federal Government on income is a very different
to take care of the individual who is not in
business tax.

Mr. DOWNING: It is not a tax, and

no more you make the more you pay. I pay business tax
on the money one year and you don't have to pay a
business tax on anything.



1
2
3
4 THE CHAIRMAN: Mr. Purnell, would
5 you mind giving us a recess for our reporter.

6 ---Short recess.

7
8 THE CHAIRMAN: Mr. Purnell, anything
9 further you would like to note?

10 MR. PURNELL: All I can say now,
11 Mr. Chairman, is to thank you and the Committee for a
12 very courteous hearing.

13 THE CHAIRMAN: Just before you go,
14 Mr. Purnell, we had last week a brief from the Urban
15 Development.

16 MR. PURNELL: Mr. Sanderson has a
17 few words to say about that and Mr. Dowling would like
18 to raise a point in connection with The Assessment Act,
19 but I am through.

20 Ladies and gentlemen, I have been
21 very pleased, and thank you again.

22 MR. SANDERSON: Mr. Chairman and
23 gentlemen, I have only one point I wish to make in
24 addition to what Mr. Purnell has said previously, and
25 this concerns The Assessment Act, more specifically
26 Section 131, subsection (13).

27 (f). This section of the Act deals
28 with an application for cancellation, reduction or
29 refund of taxes, and the subsection says that such an
30 application will be considered in all cases except a
part of a building unless such part is separately
assessed. In other words, as I interpret it, it means,



1
2
3
4 as practised by assessors, in order for a person to
5 receive alleviation or reduction in taxation because
6 he has vacancies in an apartment, the apartment must
7 be broken down and each unit must be separately assessed.
8 I am certain the Committee and Chairman are familiar
9 with the great number of vacancies. I have found,
10 sitting as a member of the Court of Revision in Hamilton,
11 a number of cases wherein an appellant has come in and
12 asked for reduction of tax because he has vacancies,
13 his apartments are vacant and they have been vacant for
14 more than three months, but he cannot get a reduction
15 because the apartment somehow or other has not been
16 separately assessed. The only one that can separately
17 assess the apartment is the assessor. We have a
18 situation, it seems, in many cases the original
19 assessment was put on as soon as the apartment is just
20 about finished. There seems to be some incomprehensible
21 delay of breaking it down. We have a case where an
22 apartment owner may have as high as 20 or 30 apartments
23 vacant, and we have had him come in and appear before
24 us and ask for reduction of taxes provided the apartment
25 has been vacant for three months and has made a
26 genuine effort to rent them. It has come up in some
27 of these cases, that the assessor will admit the apartment
28 was vacant but hasn't yet got around to breaking the
29 assessment down. We feel this is a rather inequitable
30 situation. We feel that there should be some proviso
that the assessor should break the assessment down and
it should be done in a certain period of time because
he is the only one that has the power to assess the unit



1
2
3 separately.

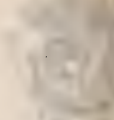
4 THE CHAIRMAN: Have you seen a
5 request by some Ontario municipalities to repeal drafts
6 on Section 131 whereby there would be no rebate,
7 cancellation of taxes on vacant apartments?

8 MR. SANDERSON: No, I have not seen
9 that, Mr. Chairman.

10 THE CHAIRMAN: Would you care to
11 express an opinion whether that would be proper or
12 not?

13 MR. SANDERSON: Well, I only feel
14 in answer to your question, Mr. Chairman, since the
15 Act does provide this appeal -- we are talking mainly
16 of apartments. It could apply to duplex or small
17 building I suppose converted into six or seven or two
18 or three 2-unit apartments, 2-room apartments. We just
19 feel that since the Act provides a relief for a person
20 who has vacancies, we should not be denied this
21 because somebody has not got around to breaking it
22 down. They are the only ones that can put the assessment
23 on and we don't deny them that right at all. At the
24 same time, it seems a little incongruous that the
25 right for his vacancy cannot be realized -- it is no
26 fault of his that it is not being assessed separately.

27 I think there should be a law stating
28 that the breaking down of the building into separate
29 assessments should be done within a certain period of
30 time, and I have given no thought as to exact period
of time. I feel that certainly it should be done within
two or three months, a maximum of three months after the



separately.

request by some Ontario municipalities to request a ruling
in Section 181 whereby there would be no obligation
cancellation of taxes on vacant apartments.

MR. SANDWICH: No, I am not sure.

that, Mr. Chairman.

THE CHAIRMAN: Would you care to

express an opinion whether that would be proper or

MR. SANDWICH: Well, I don't feel

in answer to your question, Mr. Chairman, since the
Act does provide for appeal -- we are talking mainly

of apartments. It would apply to the same in the
building I suppose converted into two or three or four

feel that since the Act provides a right for a person
who has vacancies, we should not be treated like
because somebody has not got around to breaking it

down. They are the only ones that are the responsibility
on and we don't deny that right at all. At the
same time, it seems a little inconsistent that the

right for his vacancy should be treated as if it is
kind of his that it is not being treated separately

I think there should be a law stating

that the breaking down of the building into separate

apartments should be done within a certain period

time, and I have given a thought to that in the past

time. I feel that certainly it should be done within
two or three months, a year or two at the most, after the



1
2
3 building is first assessed.

4 THE CHAIRMAN: Then, you need a
5 change in the system of assessing buildings, if the
6 assessor has to go out and assess buildings by parts.

7 MR. SINGER: He is supposed to do
8 that now.

9 MR. SANDERSON: He is. The assessor
10 puts an assessed value on the building actually before
11 it is completed, just before they bring in supplemental
12 assessment. They bring a supplemental assessment in for
13 a grand total, and that is the part the man is liable
14 for taxes on. He has already been taxed and assessed
15 for the whole building. Unfortunately, there seems to
16 be a lack in some cases, so that when he does come
17 around to ask for repayment of taxes, which he is
18 entitled to -- the apartment has to be vacant for three
19 months -- he finally finds it has not been assessed
20 separately.

21 THE CHAIRMAN: The question is of
22 setting up the machinery providing for a time to fix
23 that.

24 MR. SANDERSON: Yes. I think there
25 should be a time, Mr. Chairman.

26 THE CHAIRMAN: Is that your only
27 point?

28 MR. SANDERSON: Yes.

29 THE CHAIRMAN: Thank you very much,
30 Mr. Sanderson.

MR. DOWLING: Mr. Chairman, as you
are aware, the Committee of the Ontario Association



1
2
3
4 unanimously supported the submission of the Urban
5 Development Institute. You already, I understand, had
6 a meeting with the Urban Development Institute. There
7 is no point in rehashing what has already been gone
8 over very thoroughly. I was merely wondering if there
9 were any questions that you would like to ask this
10 Committee relevant to that submission.

11 THE CHAIRMAN: The brief of the
12 Urban Development is very informative.

13 Are there any questions that you
14 would like to ask in regard to it?

15 For instance, you will remember they
16 say:

17 "For all practical purposes most of
18 "the planning that has been done in
19 "the Province to date has been confined
20 "to the boundaries of the municipality
21 "in question".

22 They brought up the question of
23 regional planning boards.

24 Any questions you would like to ask
25 further about it?

26 MR. DOWLING: There is no use of
27 taking time going over the thing. We certainly feel that
28 the small municipality -- their time is long past. We
29 must have a greater concept where you have a situation
30 such as exists between Toronto Township and Oakville
where you have R-1 on the one side of the line and heavy
industry on the other. It is pretty bad concept of
planning. We need larger planning areas which are not



1
2
3
4 under local governments. We need to study and correlate
5 planning as a whole, and the Municipal Board would
6 correlate them and tie the whole province together. It
7 seems inconceivable that we have gone so long with such
8 a short-sighted viewpoint as existed up to that time.

9 We would increase the size of the
10 areas depending on the geography and certain natural
11 boundaries and so on.

12 MR. THOMAS: On a regional basis?

13 THE CHAIRMAN: Have one planning
14 board for the region.

15 MR. DOWLING: It might be feasible
16 to set up smaller planning boards which might do the
17 little work for the regional board. I don't even see
18 the reason for that. I think you should take in as
19 much area as geographically possible. The fewer planning
20 boards probably would be more efficient.

21 THE CHAIRMAN: How would you decide
22 on that area?

23 MR. DOWLING: This, I agree, is a
24 problem. Geographically, certain areas tie in
25 together. I think we have to try and tie areas as far
26 as services are concerned, also the availability of
27 services. It is no use having areas which could not
28 be serviced by one water system. You have a situation
29 where two townships are trying to raise money to put
30 in sewage systems which are half a mile apart. It would
seem economical if you could put in one sewage system
to service in that whole area. You have two townships
trying to raise money for two separate sewage systems.

under local government. We need to think and organize planning as a whole, and the municipal level would coordinate them and the whole economic system. It seems inconceivable that we have such a large of such a short-sighted viewpoint as to look at the time we would increase the size of the areas depending on the needs and capabilities of the boundaries and so on.

MR. TOWNE: For a regional plan.

THE CHAIRMAN: Have you a question?

posed for the region.

MR. BOWLING: It might be desirable

to set up smaller planning boards which might be the little work for the regional board. I don't even see the reason for that. I think you should take in the such areas as geographically possible. The form planning boards probably would be made at least.

THE CHAIRMAN: You would not divide

on that area?

MR. BOWLING: That I see as a

problem. Geographically, certainly, areas are in together. I think we tend to think of the area as one as services are concerned, and the area as one as services. It is not as if we have a service which is not be serviced by one water system. You can see at least where two towns are trying to make a water system in sewage systems which are not a great part. It would seem economical if you could put in one water system to service in the whole area. But I am not sure of the way to raise money for this. It would be to



1
2
3 THE CHAIRMAN: Could you tie it in
4 with drainage?

5 MR. DOWLING: I think that would have
6 merit.

7 THE CHAIRMAN: Any questions the
8 members would like to ask?

9 MR. DOWLING: They say here:

10 "The Institute believes that by
11 "removing zoning and planning from
12 "local influences, better and more
13 "objective planning would result."

14 I am quite sure this would be a
15 fact. There is a lot of local influence in these smaller
16 planning boards. There is hussle and there always will
17 be. Of course, each township has a problem of assessment
18 and in order to get the assessment in many cases land
19 was utilized and set aside for industry, a commercial
20 use, which could be better utilized possibly as
21 residential. You have a land in an adjoining township
22 which is ideal commercial industrial land which should
23 be utilized and probably, as they state here, that the
24 taxes from this industrial and commercial assessment
25 could be pooled and distributed on some pro rata basis
26 over the area.

27 THE CHAIRMAN: What would you do
28 with regional planning area in regard to by-laws? Do
29 you have any by-laws proposed by regional planning
30 board -- zoning by-laws?

MR. DOWLING: Yes, because I think
one of the first things you have to do -- one of the



1
2
3 first jobs that such a regional set-up would have to
4 do would be to establish some type of overall plan
5 for their area, each region doing the same thing, in
6 turn would have to be correlated by a separate board.
7 There will have to be some government body who would
8 tie this together, and as quickly as possible, to get
9 an overall plan for the whole, not province, but
10 certainly part of the province where development is taking
11 place. That would pretty well take care of it. It
12 would be zoned, and no local influence. It would be
13 zoned as people visualize, the best use of the land.

14 MR. MORROW: Do you feel there would
15 be some useful purpose under a larger regional set-up?

16 MR. DOWLING: Yes, they being made
17 of local people and have a feeling and closer contact
18 with the area, and certainly a Committee such as that
19 their recommendations would undoubtedly be of great
20 value.

21 THE CHAIRMAN: Do you think that will
22 be possible; as they suggest they prepare an Official
23 Plan for a region as they suggest here under (a).

24 "To prepare an Official Plan for
25 "the Region, which would be general
26 "in character and would show the various
27 "land uses within the Region, together
28 "with the present and future main
29 "traffic arteries, transportation
30 "facilities, trunk services and other
"general features. The functions of
"this Official Plan would be subject



Dowling

304

"to the approval of the Minister in
"order to be co-ordinated with the
"corresponding policies of the
"neighbouring Regions and the Province
"as a whole."

MR. DOWLING: No reason why it couldn't
be done. And certainly the Minister would have to
correlate or co-ordinate them or we would be up against
the same thing we have now.

THE CHAIRMAN: You had an efficient
plan for a region, you have to have it adopted by all
the people who form the region.

MR. SINGER: An ideal way of working
that, have a regional government.

MR. DOWLING: I think that is what
we say here. That is a natural evaluation.

MR. SINGER: When you realize we have
one thousand municipalities and four thousand school
boards, we must recognize most of those units do not
function -- the problem is they haven't got the money
to.

MR. COWLING: Who is going to eliminate
the 999 municipal governments?

MR. SINGER: You were telling us about
the great changes.

MR. COWLING: That is one change we
are not making.

MR. DOWLING: Section 28 of The
Planning Act.

MR. EVANS: The Planning Board should



1
2
3 be from the Council or some from the Council.

4 THE CHAIRMAN: Should the Planning
5 Board be a committee?

6 MR. EVANS: Yes.

7 THE CHAIRMAN: That is a question
8 that is asked all the time, whether the Planning Board
9 should be a board or committee of council.

10 MR. DOWLING: If a planning board
11 is going to act as the planning board and if the right
12 people are on it, I think they should act as a board
13 and not as a committee, not subject necessarily to
14 council. I agree that it is theoretically, but the
15 hundredsand hundreds of hours that are wasted by the
16 planning board making great studies and under the
17 direction of a planning director, all of which is brought
18 to council and in a few minutes the whole thing is
19 thrown out and simply because of local interests and
20 pressures and so on.

21 MR. SINGER: Do you think it is a
22 better system of government, of appointed people making
23 the decisions?

24 MR. DOWLING: That is why I feel a
25 type of regional planning board is better. Then, it
26 would be outside the jurisdiction of the local council
27 if the local council existed.

28 MR. SINGER: Somebody is going to have
29 jurisdiction whether it is local or broader.

30 MR. DOWLING: The broader the better,
I think.

MR. SINGER: Many people attach great



1
2
3
4 magic to appointed bodies and once they are appointed there
5 is supposed to be some great sense that falls onto
6 them from above. I have never been able to understand
7 that.

8 MR. DOWLING: I know what you mean.
9 We don't say we have the answer and we don't claim to
10 have the answers. It is our feeling and the feeling
11 of the department that the tremendous development going
12 on in future that some wider concept of planning has
13 to be instituted. Whether this is the answer or not ---

14 MR. SINGER: I think what you said
15 and what Urban Development said, by and large it makes
16 pretty good sense.

17 THE CHAIRMAN: Then, you are going
18 to look at it from the planning standpoint. You have
19 to look at it from the government standpoint.

20 MR. EVANS: And financial standpoint.

21 MR. SINGER: I think, at this point,
22 we have got the arguments.

23 THE CHAIRMAN: Thank you.

24 MR. PURNELL: Could I have one more
25 say. I don't want to leave a wrong impression. A
26 question was asked in respect to action of assessors,
27 is it common. I said, no, it is not common. And yet,
28 I sat down and a nagging thought occurred to me, and I
29 didn't want to go away and leave it at that -- it isn't
30 common. In regard to a number of assessor who do this
thing, it is very serious. I speak as I know of cases
that I acted on in 1953, 1954 and 1955, and I have
referred to large industrial plants in the Niagara



1
2
3 Peninsula. Each of those plants appealed from assessment
4 in 1953 and in each case it was reduced. In 1954 it
5 was raised. 1954 they appealed again and it was reduced
6 and raised. In 1955 they appealed again and reduced and
7 raised. The assessor had the last word. In that
8 respect, the situation is far more serious than
9 contemplated. Not many assessors do it. When they do
10 it in such volume, it becomes a serious matter. I
11 estimate \$25,000.00 spent on those appeals, sir, in that
12 time.

13 MR. DOWLING: Mr. Chairman and
14 gentlemen, The Ontario Association of Real Estate Boards
15 appreciate your attention.

16 THE CHAIRMAN: We appreciate your
17 coming over. If you have any other ideas in future,
18 we will be here and glad to receive them.

19 MR. DOWLING: Thank you very much.

20 ---ADJOURNMENT.
21
22
23
24
25
26
27
28
29
30

LEGISLATIVE ASSEMBLY OF ONTARIO
MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACTS
AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY,
June 13th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H. G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J. A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Thomas D. Thomas

APPEARANCE:

Mr. Reg. Cooper
Mr. E.J. Campbell

PRESENTATION:

BRIEF - THE CORPORATION OF THE CITY OF BRANTFORD

THE CORPORATION OF THE CITY OF BRANTFORDHOLLIS E. BECKETT, CHAIRMAN

MR. BECKETT: Mr Gordon, this is the Committee from Brantford; would you like to introduce them, please?

MR GORDON: Yes, Mr Chairman, we have with us this morning, Mr Reg. Cooper- no relation to Reg. Cooper, the City Clerk of London, but he's the City Clerk of Brantford, and previous to being the City Clerk, he was an Alderman for a number of years and also on the Board of Education. Then we have Alderman Ed. Campbell, who was Mr. Cooper's predecessor, and I think he was some 29 years as City Clerk of the City of Brantford, so we have two people with a wide experience in municipal affairs. And I'll introduce to our guests the Committee who are here. We have our Chairman, Hollis Beckett and (introduces the Committee) Now Mr Chairman, I present to you our two guests here.

MR. BECKETT: Would you come up here, Gentlemen and we will hear from you when you are ready.

MR COOPER: Thank you very much. I believe the procedure is to read the Brief and then questions will be asked. I will say our Brief is very brief; we only took those things that were of immediate concern to the municipality, being aware that very many other representations were being made to the Select Committee. Gentlemen our first page:- (reads) "The following representations.....two townships." (page 1, para 8)

MR BECKETT: Just there, you say "all Councils"- what does this mean?

MR COOPER: All municipal councils in the county. If they refused to make an agreement or sign an agreement with the Corporation or the Hospital Board...where they agreed to usmaking a surcharge to meet their share of the capital costs- that is based on User-day-basis ...on the average number of patients...but not necessarily in the previous year.

MR EVANS: What would this surcharge be? 10%-5%?

MR COOPER: \$2 a day.

MR MORROW: \$2 a day, is that on the basis of \$10 or \$12 a day; you know- they pay \$3 a day more than the regular rate?

MR COOPER: Ours is \$2 a day, but I think it is less than average.

MR THOMAS: The surcharge would be charged to the hospital or to the patient?

MR COOPER: To the patient- direct to the patient. The two municipalities had an agreement with the corporation where the municipality paid it, kept count of the number of patients and billed them at the end of the year, and they paid.

MR THOMAS: Would that be hard to collect? wouldn't there be some defaulting?

MR COOPER: It saved the hospital a lot of headaches; the complaints- they couldn't understand when they paid their bill why they should pay this extra- it was difficult but we had no other way of course. (continues, page 1, para6) "With the introduction.....townships."

MR BECKETT: What is meant by that?

MR COOPER: Well we could no longer charge surcharges in these four townships, and these other two, after some months, they began to pay it and they terminated their contracts....

MR BECKETT: They had that right in their agreement I suppose?

MR COOPER: Oh yes, it could be terminated by either party.

MR EVANS: Mr Chairman, is it possible that many counties take and therefore assess all municipalities? Has that been tried in your area? or in your county?

MR COOPER: Yes, for a number of years, the county themselves could not agree; we were always referred back to the townships, and then we'd have to ask the townships individually, and it was very difficult; some would agree and others would not. And now we're receiving a grant from the county towards capital costs of one of the hospitals, the General Hospital- they make a grant of \$20,000 a year. And this is our problem, we don't know whether this grant will continue or whether a new council will make a new decision and reduce it or increase it.

MR THOMAS:

Well, Mr Cooper, to the Brantford General Hospital, you made a debenture issue of \$2,207,000.00; did you raise any money for that project by public appeal at all?

MR COOPER:

Yes, there was close to...well there was a \$300,000 public appeal for two projects; two bodies, the YMCA, and they bought furniture and things like that; they've assisted us a great deal.

MR THOMAS:

So that figure would be quite high considering the amount of money you've received from the public appeal too, wouldn't it, for the construction of the hospital- what did it cost?

MR COOPER:

Under the conditions of the approval by the OMB of the debenture issue was conditional upon raising \$600,000 by subscription; this has produced \$300,000 to date.

MR EVANS:

I might say, Mr Chairman, having seen on one of those very agreements with a hospital, and there's quite a few of them in that area, and we passed a by-law in which it's binding, so that regardless of how the council changes, they have to back those debentures as long as there is anything to pay.

MR COOPER:

We have another hospital in Brant County that brings a little difficulty- Paris- and the Town of Paris always objects to participation although we have suggested that we would participate in the costs of their hospital to the extent that our people use it. And the county has been divided in that respect. We have this particular problem at the present time where we are proposing to build a nurses residence and training school in connection with the Brantford General Hospital, and we approached County Council and they have agreed to participate to the extent of \$85,000 to the cost of this project which will cost \$225,000. And we are very pleased and satisfied with that. Notwithstanding all this, we are saying that this is a very difficult position for the municipalities to be in; for example, administration of justice, homes for the aged, roads, school bus, etc, there is legislation and there are forms of arbitration when we cannot agree on these problems. But for hospitals there is no provision for shared municipal costs. We are suggesting that we have ask the Ontario Hospital Services Commission back as far as 1959 about this problem; we were assured it was being studied but we still have the

problem. But I want to emphasize that our relationship with the county is very good.

MR MORROW: We have the same situation in Ottawa, by the way, between Rochester Township and the City Hospital, you see, and they always paid 25% surcharge until the grant came along, and there is a bit of...well polite pressure being put on by the OHSC to contribute towards this, but there is nothing but...

MR COOPER: Moral obligation and....

MR MORROW: Moral obligation of course the grants.

MR COOPER: When we asked our people to vote for these debenture by-laws, we did ask the permission and consent of the people and we put it on to them. But it is a problem. It might be added- Alderman Campbell reminded me-that the county volunteered and made an agreement with the Brantford General Hospital to pay them back at the time the debentures were issued, and we were very pleased with this. (continues, page 1, para 7) "As a result.....of Governors"

MR BECKETT: Just there, Mr Cooper, does the county make similar grants to the other hospitals in the county?

MR COOPER: I'm not certain whether it's by townships or ...I believe it's by townships..the Township of South Dumfries, the patients go to hospitals in Galt and to Paris and to Brantford. I believe they share in all hospitals....

MR BECKETT: But you do not get any grant then from the townships, yet they use your hospitals.

MR COOPER: But we get the \$20,000 grant.

MR MORROW: We have the same thing in Ottawa and we get a shot put on our tax bill; the surrounding suburban area, they use the hospital and they get a free ride.

MR BECKETT: And there's no discrimination about being admitted?

MR COOPER: None whatever. (chitchat re free use of hospitals by surrounding areas) (continues, page 1 last para) "This would compare.....for this purpose." That is Section One.

MR BECKETT: Just there, would any of the Members of

the Committee like to ask Mr Cooper any questions? All right, Mr Cooper we'll take that into consideration-you may proceed.

MR COOPER: (reads, page 2, Section 2) "Fire Department Act. Section 5..... 1960-1961 Conferences" I might add, Mr Chairman and Members, Brantford had an unfortunate problem; their Chief was sick for many many months, and our Deputy-Chief was Acting Chief, and we felt at that time that this position was embarrassing for management; and we felt the thing to do was to exclude the Deputy from the bargaining unit.

MR BECKETT: I may say, Mr Cooper, we have received several Briefs along the same line. It's always been a contentious matter whether the Deputy Chief should be excluded. Do you think it would be more practical?

MR COOPER: Yes, someone has to represent management in the absence of the Chief; and we dont expect a man to work 24 hours a day and 7 days a week and not have a vacation, no holidays and things like that. And too, when a man comes up for promotion- recommended for promotion and to have supervision over the other officers and men, our Association has requested that from time to time that a sort of Management Board who will set up a course for officers who will judge these people on the performance of their duties for promotion. It seems rare that members of the union that these people belong to should recommend them for promotion by management.

MR BECKETT: Any comments by the Members of the Committee?

MR MORROW: Yes, Mr Chairman, before we proceed, just what is the attitude of the Police Association on that? Were they for or were they against it, I just cant remember? I remember us referring to that before to get their attitude whether they were for or against it.

MR BECKETT: (to Mrs Rowan) Could you turn that up- the Police Association. (to Mr Cooper) Did the Police Association make representation on this matter to Council?

MR COOPER: No, they did not.

MR TAYLOR: Mr Chairman, there's a letter here from Mr Hilton talking about the Association- Mr Hilton is the Solicitor for

the Metropolitan Toronto Police Association- and he states here that the Association represents all members of the Police Force other than the Chief Constable and the Deputy Chief Constable.

MR MORROW: So they rule out the Deputy.

MR COOPER: Item No. Three (reads page 3, para 1) "Marriage License Fees.....from the license fee." We dont feel the \$1 now paid meets the cost; issuing a license takes anywhere from half an hour to three quarters of an hour of time as well as correspondence between the Department and our civic clerk's office...

MR MORROW: What do you mean the hours?

MR COOPER: We issue between 365 to 375 licenses a year from our office, not necessarily to our own people; they come from all over the townships; some townships issue licenses and others do not.

MR MORROW: What do you charge on this- \$5?

MR COOPER: We pay \$4 in advance- we buy 50 at a time and we retain \$1- rather \$1 goes to the municipality. We have three people in our office who are issuers.

MR GORDON: About how many years is it since it was established at \$1?

MR COOPER: Do you know, Mr Campbell?

MR CAMPBELL: It's over 30 years that I can recall.

MR GORDON: It doesnt cost any more to get married than it did 35 years ago.

MR CAMPBELL: I think there was a regulation that it had to be issued through the clerk's office, formerly quite a number, jewellers, insurance men had their own licenses to sell; there was no very official registration, but now it is under strict supervision, but \$1 doesnt cover the cost of issuing the licenses.

MR MORROW: All costs have gone up, and of course the costs of the municipality have gone up as well.

(chit chat and jokes re marriage costs)

MR BECKETT: You may proceed, Mr Cooper.

MR COOPER: Item No. Four, (reads, page 3, para 2)

"The Municipal Act.....not exceed \$5) Speaking to that, we find that

we have no way of registering these people unless we have a license; then we would know who is in town going from house to house and know what they are doing. The public are quite conscious of pedlars and of course we have the occasional unscrupulous person going from house to house and the call in and want to know if they're licensed. And with these salesmen who do not carry samples or goods or wares, we cannot require them to have a license. At the present time our license for pedlars is \$15 for local residents and \$100 for non-residents. This seems to reduce the number of pedlars that we get; jewellery salesmen come into town and leave suddenly and people are not satisfied with the goods. Now magasine are, on the whole, I believe, responsible people and a great many of them belong to the Canadian Central Registry; and they do come in and make themselves known- they make themselves known to the Chamber of Commerce or to the Board of Trade and we have no difficulty. But of course there is the other kind and of course it is very difficult for a householder to deal with. We would like to have some form of registration for these salesmen and we're suggesting a minimum fee of \$5 and we want the name and address of the company as well.

MR MORROW: I wonder, Mr Chairman, if we could ask Mr Cooper what the attitude of his municipality is in regard to salesmen of religious literature, religious tracts- we've had a delegation here..

MR COOPER: We've had no direction from Council on that....

MR MORROW: Do you charge them a fee? \$100?

MR COOPER: If they're from out of town, they come under the \$100. They don't like it of course; we've been told by the Department we can't have two fees; if we want \$100 for an objectional type of thing, it's got to be \$100 for everything; otherwise we could be in court as discriminatory. We used to have a \$2 fee for magazine salesmen and \$10 for green goods; jewellery salesmen, \$500; somebody else \$200. And we found out they wouldn't stand up in court; and with the permission of the Department, we have the \$100 fee; \$15 and \$100. This seems rather a hard amount to collect from magazine subscription salesmen, and if he doesn't carry a sample, we don't collect it.

MR COWLING: Do you have many pay the \$100 fee a

year? How many for example in 1961 paid \$100?

MR COOPER:

Oh about half a dozen, I would say besides the local residents at \$15. We think that bonding would have merit, we suggest it's the easiest and we know then they're responsible. We have had occasion when people have collected a down payment and never returned nor sent the merchandise.

MR COWLING:

These jewellery people - you were pretty hard on them; was there a reason?

MR COOPER:

Well yes, they used to make a quick sale and a quick departure in the town and the people would complain that they had been taken in.

MR MORROW:

It lends itself more to corruption.

MR COOPER:

Yes and the people expect protection and we know that with one born every minute, we cant protect everybody. People will phone that there is a pedlar on the street; I phone the Police Department and they radio out to a car to pick the pedlar up; they bring him in and explain what the by-law is; if he has the \$100 he pays it and if he hasnt, he's permitted to leave town without any charges being laid.

MR BECKETT:

When you suggest a bond, Mr Cooper, would the person have to be bonded for each municipality where he enters to sell?

MR COOPER:

No I wouldnt think so-we're satisfied with the bond he would have.

MR COWLING:

The same as the real estate people have.

MR COOPER:

Auctioneers are required to be bonded in the amount of \$500.

MR BECKETT:

I was just going to ask you that- I have a letter here from a lawyer here in town asking that there be legislation to bond auctioneers.

MR COOPER:

It's already in our by-law.

MR BECKETT:

Do you know by what authority...

MR COOPER:

I think we are permitted to regulate and we have the regulation.

MR THOMAS:

Have you had any representations from an organization called the Seventh Day Adventists or like them?

MR COOPER:

Yes, they stop in and inquired what

the fee is- it's \$100.

MR GORDON:

But they have a chapel in Brantford

though- the Seventh Day Adventists, so they'd get it for \$15, and then the Jehovah's Witnesses also have a Kingdom Hall and they use local residents.

MR COOPER:

I don't think anyone would say anything

to them though.

MR THOMAS:

Well their argument is that there should

be general legislation that the maximum should be \$10 for that kind of religious tract...that kind of canvassing.

MR BECKETT:

Well Mr Cooper, do you think that

Clause 7 in 399, Licensing Regulations Governing Auctioneers, to give you the right to bond, also under subsection 1 of 399, there are licensing regulations governing persons who go from place to place and it suggests bonding to them.

MR COOPER:

We're rather stuck here with this carry-

ing specimens...

MR BECKETT:

Oh yes, if you assume that the word

"regulating" gives you the license to bond a person, and....

MR COOPER:

No, what we are thinking of here, of

course was more of a general bond across the Province rather than an individual bond; for an auctioneer, it is reasonable to have an individual bond to protect people at a sale; he could have one sale and may be unavailable afterwards and the people would have a bond to protect them for the average individual sale. For magazine salesmen, it would be very difficult for them to come to town and to arrange a bond, it might take two or three days before they could get going. Shall I go on? (yes) (reads, page 3, Section 5) "Statute Labour Act, re Poll Tax..... of a similar nature." That I think is self explanatory; I don't think I can add to it.

MR MORROW:

We have quite a few municipalities who

want to abolish completely, Mr Cooper, this Poll Tax.

MR COOPER:

Many of them have a business tax- we

don't see the equity in having ...that they should be entirely excused,

particularly now that they have the same franchise which permits people of this nature to have two votes for a member of Council; their payment gives them more of a sense of responsibility.

MR THOMAS: How do the receipts on Poll Tax compare with the cost of collection in Brantford last year?

MR COOPER: Somewhere around \$8000 in collections; and we don't estimate our cost as much over \$2500; it's part of the tax collector's job and it's a nuisance; ~~summons~~ people- we take them to the Magistrate if they don't pay- so are all these license fees that we collect. I've collected about 10,000 license fees- various licenses- you get as far as summoning people and you usually collect them all without; but on Poll Tax, we do summons and that is a great nuisance.

MR BECKETT: There's quite a number?

MR COOPER: Yes, they have a great objection to paying it and people move a great deal of course and they pay in one municipality and they're not required to pay in another.

MR MORROW: That's the trouble, there's no uniformity. I think you have a point there in asking the females to pay. The female population are let go scot free; they're now demanding all the rights of males; most of them have automobiles....

MR THOMAS: It's just as well this isn't your election Don...(laughter) (chit chat and jokes) This spring brought the abolition of the Poll tax in Oshawa; I think they collected around about \$20,000 and the administration cost them- this includes the fees in court and everything and the lost time for the policemen- it cost them about \$18,000 -they made \$2,000 on it. The Council was divided on it, so they decided to keep it on for another year.

MR COWLING: How much is it?

MR THOMAS: \$10.

MR GORDON: What is the population of Oshawa?

MR THOMAS: 62,000.

MR BECKETT: This is a kind of a license that...is there anything wrong with it?

MR THOMAS: These are young people who are boarders

in homes and they pay rent and they pay income tax too and I cant see....

MR BECKETT: They're not paying income tax to the municipality? (no)

MR GORDON: Mr Chairman, I think that Oshawa should send to Brantford to find out how they collect their Poll Tax for \$2500.

MR COOPER: Well this is only an estimate; we have no breakdown of the actual cost.

MR BECKETT: But you took in \$8000? (yes) Are there any other cities near that have Poll Tax? Any of the surrounding counties?

MR COOPER: No.

MR GORDON: As far as legal fees are concerned, Mr Chairman, we have a city solicitor, so we dont have to pay a lawyer for this work.

MR COOPER: The costs are there no doubt, but you wouldnt be laying anybody off and save some money. I suppose it isnt fair to cover the costs between roads and services either that people use in a municipality.

MR BECKETT: Are there any further questions?

MR COOPER: We appreciate the friendly hearing, Mr Chairman and Gentlemen.

MR THOMAS: Mr Chairman, isnt there another Brief here?

MR BECKETT: Oh yes, there is.

MR TAYLOR: This is a supplement endorsing the Resolution of the County of Halton.

MR COOPER: Oh yes. No I havent come prepared to speak on that today.

MR THOMAS: This is just the endorsation of the Resolution.

MR COOPER: Yes, I am not prepared to speak on it; our Council are giving support to it. We find this to be a problem just as other municipalities. Shall I read it, Mr Chairman?

MR BECKETT: Oh yes, we've gone through this- was it discussed in open council?

MR COOPER: No, no it was discussed in Committee as I recall...parking lots and shopping centres..and we approved it as a

Resolution. I might say we've been successful in assessing these individual shops.

MR BECKETT:

I might tell you that the Committee has asked the municipalities throughout the Province to submit Briefs in connection with the Business Tax in general and I wonder if you'd want to comment on the matter of the Business Tax in general, and not restricted to what is in that resolution. We have several Briefs from organizations suggesting- some of them- that the Business Assessment should be overhauled and put on a different basis than on the assessing basis.

MR COOPER:

I'm not prepared, Mr Chairman, I would have to discuss that further with our Council and with our Assessment Commissioner- he is more qualified on that.

MR BECKETT:

I might tell you for your information that there are in Metropolitan Toronto 67 shopping centres, and the assessment on the land including the parking lots is \$8,570,000 and the assessment on the buildings is \$27,766,000; and the business assessment which excludes parking lots is \$11,788,000. And the feeling, as far as I can find out, if you're going to have a business assessment on parking lots, the tenants shouldn't be asked to pay any part of it. They have long term leases with these parking centres as part of it; and they have escalator clauses in their leases that the rent goes up as business goes up, and they shouldn't be called upon to pay any more taxes; and further that they shouldn't have to pay business tax on a parking lot that is used by the general public seven days a week.

MR COOPER:

But the individual business man a block away in single rented quarters and had a parking lot, he would be required to pay business tax.

MR BECKETT:

For a single business? (yes) If he was paying rent on the lot.

MR COOPER:

Yes, he would have to pay; but if he becomes part of a group enterprise, why should he be excused?

MR MORROW:

We never can ascertain whether there is a parking lot charge worked into the rent but we suspect it is, though in reality we would have to say he really is paying for his store a rental,

and that he is sharing parking accommodation.

MR COOPER: Well shared accommodation is common; you will see a bank share accommodation for parking with its neighbours and one must agree to pay it and charge the other.

MR BECKETT: Well this is the feeling here in Metro Toronto that the land and building assessment of stores and shops is greater than the assessment outside the city. The malls, driveways and walks however offer no greater influence or added value to a store or shopping centre than a sidewalk or boulevard does to a store abutting or fronting a highway, so that to add a proportion of the reality value of the parking lot, malls, driveways and walks and letting on such added value to the business assessment tax, we think is unreasonable....at least the shopping centres think it is inequitable.

MR COOPER: I think there's some merit in the walks and it saves the municipality the cost of maintaining the frontage; in that respect if they were private owners on property, they'd pay an improvement tax for the lots.

MR BECKETT: No, not here; that's between the city and the shops on the mall. What do you think about a medical centre- doctors and dentists and they have a parking lot for the patients? Would you put a business tax on that property?

MR COOPER: On the owner.

MR BECKETT: By the owner but not on the doctors and dentists, who were tenants?

MR COOPER: But you couldn't put the business tax on the owner under the present Act.

MR BECKETT: No he is not in the parking lot business. but then a man who has a little cigar store next to Loblaws or a shopping centre, there is no question of him paying when that parking lot is open to the public-it's not earmarked for anything.

MR COOPER: Yes, but it is for the customers of the shopping centre.

MR BECKETT: And yet the customers may not be able even to get into the parking lot.

MR COWLING:

But it is available.

MR BECKETT:

And it's charged for and I don't think it is right to charge again and my information is that the land and buildings of shopping centres is assessed much higher than single properties are assessed, and they take care of that. And as I said before, you'll find cars parked all day in shopping centres and the owners take the subway down town.

MR COOPER:

Would it be necessary to amend the Assessment Act to permit a higher assessment of shopping centres; otherwise you've have to continue appeals if they're assessed too high.

MR BECKETT:

No, no, that's what is done in Metro; they feel that the land and buildings in a shopping centre are entitled to a higher assessment.

MR COWLING:

Certainly the people who rent locations in shopping centres pay a higher rent comparatively than they do in a single location; and I suppose the reason is that they have larger accommodation for their customers.

MR BECKETT:

Maybe they do more business too.

MR COOPER:

Well I would like to say this, that we would hope any amendment introduced would not reduce the amount of the income the municipality would get from its assessment of business. This item of revenue is very important to them and as you know, Mr Chairman, the average home cannot contribute enough to support itself.

MR THOMAS:

Do you think they should be a little more uniform than they are--there is a great variation, from 10% to 150% on the distillers. Do you think it would be possible to make it a little more uniform?

MR COOPER:

Well I don't know the reason for it originally-- I really don't know enough about it.

MR BECKETT:

Well you wouldn't know then whether your city assesses all businesses according to the Act or not?

MR COOPER:

Oh yes, we assess by the Act. In fact at our last change of population our retail stores had a change of their business assessment which is according to population.

MR BECKETT:

What is the explanation of that?

MR COOPER:

Over 50,000 in population, you reduce your assessment to 25%.

MR BECKETT:

We want to thank you, Mr Cooper for coming and presenting your Brief; Mr Campbell, do you want to say a few words to the Committee?

MR CAMPBELL:

No, I don't think so, Mr Chairman. Mr Cooper has covered what we had to say, but I would like add my thanks to the Committee for the courtesy extended to us today in receiving the Brief.

MR MORROW:

I wonder if they've been to the OHSC on this hospital thing recently since 1959? Have you been brought up to date on their recent thinking on this problem.

MR COOPER:

They told us they would let us know, of course and we've made representations through the OMA and there is nothing new on it yet.

MR MORROW:

I think it's important and I would keep hammering at them and I'm very much in favour of it because we have the same situation in Ottawa. It's that free ride that a certain section of the population is getting and others are paying for it-it's a matter of principle

MR COOPER:

When it comes to the administration of justice, the homes for the aged etc there seems to be arrangements for everything except hospital capital costs.

MR MORROW:

Well I just doubt whether we could really legislate effectively, Mr Chairman.

MR BECKETT:

That province belongs to Ottawa.

MR MORROW:

Yes and with federal and provincial, it is an awfully hard thing to get legislation.

MR BECKETT:

Mr Cooper, did the OMA take any action.

MR COOPER:

Yes, they approved a resolution that was submitted by the Municipal Clerks and Finance Officers Association.

MR BECKETT:

And did they get any reply from the Commission? (no) Perhaps we will hear from the OMA. Well once again, we thank you very much.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-FIRST MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

WEDNESDAY
 June 13th, 1962
 AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.	CHAIRMAN
MRS H.G. ROWAN	Secretary
MRS E. EATON	Asst. Secretary
J. A. TAYLOR	Solicitor
MEMBERS:	Alfred H. Cowling
	Arthur Evans
	George T. Gordon
	Ron K. McNeil
	Donald H. Morrow
	Vernon M. Singer
	Thomas D. Thomas

APPEARANCE:

Mr C.E. Bennett
 Mr T.A. Lyman
 Mr R. W. Neal
 Mr M.M. Hawbrigg
 Mr R.Y. Graul
 Mr J. H. Allen

PRESENTATION:

BRIEF - DIRECT SELLERS ASSOCIATION

DIRECT SELLERS ASSOCIATIONHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Gentlemen, we have a quorum now and can begin. Mr Bennett, would you like to introduce your delegation to the Committee.

MR BENNETT: Thank you, yes, Mr Chairman. We have Mr Lyman of the Beauty Counselors; Mr Hawbrigg of Fuller Brush Co; Mr Allen of Stanley Home Products; Mr Graul of Electrolux and Mr Neal of the Direct Sellers Association.

MR BECKETT: Mr Bennett, would you like to come up here and we will proceed. (introduces the Members of the Committee)
You may proceed, Mr Bennett.

MR BENNETT: Thank you very much. Mr Chairman, I think the best way for me to approach our position is to refer to our Brief of September 13th. I don't propose to read all of it-I might read one or two pertinent paragraphs. (reads page 1, para 1) "The Direct Sellers..... appendix." I might say we are affiliated with the Canadian Manufacturers Association in that we are all fully qualified members, that is we manufacture in Canada. The question might arise about those who don't; we have none who do not manufacture 100% of the products they sell in Canada; we have provisions in our Association for an Associate Membership, by which people could qualify who manufacture over 50%, but we have no associate members. We have only fully qualifying members of the CMA. (continues, page 1 para 2) "Direct selling.....manufacture." I might note here that we pioneered silk stockings and other products like the safety razor, many cosmetics, vacuum cleaners and so on; these have now been taken over by other forms of merchandising to a great extent, but they were directly pioneered by these groups; silk stockings is one of the outstanding examples of a direct sales organization pioneering the introduction of new products. Household appliances is another. Our representation to the Committee is based on two items- two Sections- two subsections, I should say in the Municipal Act. They are referred to at the bottom of the first page- Section 247, subsection 4. (reads) "The said Section.....by any court." This, we submit, is discriminatory, in

that subsection 9 of the same Section provides for a final appeal to a judge of the Supreme Court. (reads, page 1 last para) "Subsection 9...revoking a license. It is.....with sound reasons."

MR BECKETT: Just there, Mr Bennett, you say "by a single individual"- do you mean there is one person in some cases that is not the Police Commission?

MR BECKETT: Yes, very often the License Inspector

MR SINGER: Or a clerk.

MR BECKETT: But there is no power of delegation from the Municipal Council to an employee; it's the action of the Council in all other cases, except where there's a Police Commission. You might think it's one individual, but the Municipal Council cant delegate its powers-it's the Council that does it actually in the final analysis.

MR BENNETT: Yes, I think that's correct- I think in practice it has some unfortunate experiences.

MR SINGER: On the other hand if you get recommendations from an individual, they are almost invariably accepted, and perhaps this is the suspicion of the individual who makes the recommendation.

MR BECKETT: Well that could be- just a suspicion. Your argument is there should be the right of appeal?

MR BENNETT: Right.

MR THOMAS: Well if the matter is before the clerk of the municipality and he just turns it down, the individual still has the right to appeal to the Council. I know cases where this has happened.

MR BENNETT: Yes, but that's very difficult to do, Sir.

MR SINGER: Well it's the Council in the first instance that has the right and not the clerk, hasn't it? But the point that Mr Bennett makes is a very valid one; if there is any reason for an appeal to a Board of Police Commissioners, surely there should be a reason for appeal from the Council. Some Councils have been known to act pretty arbitrarily.

MR BECKETT: Of course your Police Commission is appointed by Council in the first instance too and they delegate that power under the Act to the Police Commission.

MR SINGER: The Police Commission is not really appointed by the Council- it's the head of the Municipality - of course people appointed now- two people appointed now by Order-in-Council.

MR BECKETT: I know but actually...

MR SINGER: Well...you were objecting just a minute ago, Mr Chairman, in saying that the individual didnt make the determination- it's the Council; but in this case we must presume that it's the Lieutenant-Governor-in-Council. The Attorney-General fought awfully hard to get that power in the Act that he put through this Session.

MR BECKETT: Anything else, Mr Bennett? If not please proceed.

MR BENNETT: No, Mr Chairman. (reads, Page 2, para5, line3) "If such a person.... revocation of a license." The second portion has to do with License Fees. I should first of all say that the Direct Sellers Association heartily agrees with the principle of license fees as a means of providing regulatory control, but not as a means of augmenting municipal revenue. (continues page 3, para 1) "The provisions.....and rural municipalities.....\$5.00" In particular there is another point in this, Mr Chairman, that the Department of Municipal Affairs in recent years has, in effect, established a maximum, and the idea of a maximum is not without precedence in the present regulations. (continues page 3, last para) "We further recommend male counterparts."

MR THOMAS: Would the fee be paid by the seller or the company producing the product?

MR BENNETT: In most cases, the fee is paid by the seller, in most cases. Another suggestion has been made that if a separate fee scale could not be entertained, that possibly a fee based on total retail sales- a percentage of total retail sales. Frankly I'm not quite sure how this could be worked- this is an alternative. This is certainly a departure from established licensing procedures, it would provide for a fee that would be equitable in relation to the volume of sales.

MR BECKETT: You say here " similar license fee schedules have been established in other provinces." (yes) Could you quote one of them?

MR BENNETT: An outstanding example is the Province

of Saskatchewan, and this is the broadest legislation...would you like...

MR BECKETT: We have a copy of it.

MR BENNETT: They use there what they call a Commercial Agent's Act. Simply it provides that every direct sales person must buy a provincial license; then that allows you to buy a municipal license which is scaled according to the population in the municipality.

MR MORROW: What about Quebec now? How do they compare?

MR BENNETT: Quebec..they have a maximum established by the Provincial Government, and beyond that it's left to the municipalities; there is a maximum figure in Quebec.

MR BECKETT: But no provincial fee?

MR BENNETT: No provincial fee- that's correct.

There is a provincial fee in Alberta, for certain companies that I know; and there is a scale of maximums in British Columbia.

MR BECKETT: Not a provincial fee in British Columbia?

MR BENNETT: Not to my knowledge- but possibly someone else could correct me on that but I think that's right.

MR BECKETT: Then how do they compare what you suggest here in the other provinces?

MR BENNETT: The license fee here? (yes) they're pretty much in line- some will be higher and some will be lower.

MR EVANS: There's no province uses a percentage basis?

MR BENNETT: No, that has been given as a suggestion it was suggested by several people to try to get around the part-time female help. This is really a problem because many of them work to very limited objectives and actually have very small earnings. It might be just to buy a new dress for example and then they stop.

MR BECKETT: Has any other province a separate scale for female sales people?

MR BENNETT: Not to my knowledge, Sir.

MR MORROW: Mr Chairman, I wonder if Mr Bennett implies, is it more difficult in Ontario than in any of the other provinces?

Mr Bennett: No. I think I speak for the members of

the Association when I say that under the present regulations, we find ourselves quite well treated. Except in isolated cases, we are....in the majority of cases, because of the maximums of the Department of Municipal Affairs puts on these license fees before they're approved, we find ourselves quite well treated. We have no..... no real complaint.

MR BECKETT: When you say a maximum, what figure do you use?

MR BENNETT: For a number of years now the Department of Municipal Affairs in Ontario would not approve a license fee in excess of \$50.

MR BECKETT: Well we had it this morning- it's \$100.

MR BENNETT: These are rare cases, I can say. The majority are \$50.

MR BECKETT: The City of Brantford is \$100...for outsiders- \$15 for local people. Have you found, Mr Bennett that's about the average? \$15 for local people?

MR BENNETT: I'm not sure...sorry I cant be more definite but I would think so.

MR BECKETT: Would you like to carry on?

MR BENNETT: That pretty well covers it, Sir. I could say more but I think that is it. I appreciate very much being invited here but I wont impose on your time.

MR SINGER: Mr Bennett, what about this alternative suggestion you have at the bottom of page 4, an alternative to the fee scale, you're suggesting...

MR BENNETT: The 1% of retail sales? (yes) That was put in, Sir, only as a possible means of arriving at some system of fairly licensing these female sales people who sell only for part time. It could be extended to male people, but I think for male sales people it's a rather radical proposal. I think it would not find too great acceptance myself.

MR THOMAS: Would there be any difficulty in assessing the amount?

MR BENNETT: I think there would be; that's the problem. It sounds attractive but I think it would be difficult to operate.

MR SINGER:

It would be difficult for an individual municipality to get a real good look at the books of the company.

MR BECKETT:

Getting back, Mr Bennett, to your first point about the lack of appeal, the municipal councils, have you found many of them to be discriminatory?

MR BENNETT:

No we have not, Sir, no. We have found, speaking for the members of this Association, we have found generally that we're very well treated; but we have to say that. But occasionally, we have run into a prohibitive fee that may have been established many years ago; we've run into places where these people would just like to see you right out of business. But generally speaking the members of this Association have been very well treated by local municipal bodies.

MR BECKETT:

And what would be your opinion about bonding the salesmen?

MR BENNETT:

That is done in one Province; well, the way they do it, is they bond the company, and any claim against the sales person who is an authorized representative, the claim is made against the company. I might say a manager might be the first to act as the commercial agent on these bonds. This, incidentally, we think is quite a sound provision; this gives a lot of people second thought.

MR COWLING:

Why wouldnt these fellows be bonded in the same way as the real estate salesmen for example.

MR BENNETT:

Most of our member companies, Sir, already bond their representatives. Our people are bonded now-it's not a surety bond,,,...

MR SINGER:

Yes but that's a bond for the protection of the company, not for the protection of the public.

MR BENNETT:

That's correct.

MR COWLING:

No but they could be bonded; your group wouldnt have any objection to that?

MR BENNETT:

We would think it unnecessary; we could also, I think, understand why you would ask for that. The fact that our representatives have to get a surety bond for us is a pretty effective screening device.

MR COWLING:

When you start the man out knocking on

the door, he's basically qualified to represent your company.

MR BENNETT: That's right.

MR BECKETT: Then you have no objection then in the Province of Ontario, if the salesmen were bonded?

MR BENNETT: I think not except for the time consuming element- there might be a certain amount of bother. My remarks might be coloured by my own personal view; I might refer that to the members of our delegation- they might have very strong reasons for saying no.

MR BECKETT: Have you experienced any municipality in Ontario where they've asked for your salesmen to be bonded? Some municipalities do require a bond.

MR BENNETT: No I don't think so. Mr Lyman was going to comment there- could we ask him?

MR LYMAN: In reference to the matter of bonding, and going back to the Province of Saskatchewan, our company was required to provide a \$10,000 bond about four or five years ago. We have never been called upon to pay from any failure on the part of any of our people in the province.

MR COWLING: Are you the Beauty Counselor? (yes) Yours are all ladies then? You don't have any men? (no) Of course you don't have any problems (laughter) Not the same problems.

MR SINGER: You made the remark in the Brief that you don't believe that licensing should be a method of raising municipal revenue. Now there are some municipalities who believe that if your people or member salesmen are going from door to door, they are putting themselves in competition with the established businesses who are paying real estate taxes and business taxes, and who are producing revenue and perhaps there should be a method of getting revenue from people who are taking money from that municipality.

MR BENNETT: That's the thinking behind the 1% suggestion.

MR SINGER: Yes, that's why I followed that up. Perhaps there should be some relationship, and when Mr Evans made the point on two occasions that perhaps there should be a tax on gross annual turnover; and what we've discussed several times is the taxes that are

paid, say by an outlet of Simpson-Sears or Eatons, who just have a little hole in the wall, yet do a tremendous amount of business and pay a very small amount of taxes.

MR BENNETT:

I think, if I may speak longer, Mr

Chairman, I think one of the biggest problems that a direct sales company has, and which is true of most companies represented in our Association, is what looks like a nice tidy regulatory fee for one village, becomes prohibitive if your sales territory takes in four or five municipalities; and it takes four or five municipalities in a rural area to support one salesman. These little fees add up to prohibition, and that is what happens. Now we acknowledge the competition; we think the competition is limited and probably helping. In total, we suggest that these people who are local citizens, who spend most of the money they make in the local area, are stimulating business more than they're cutting into anybody.

MR BECKETT:

Mr Bennett, individual fees cant be

prohibitive now under the Act; they're limited.

MR SINGER:

They're limited, not by statute; they're

limited by the Department.

MR BECKETT:

Yes, but prior to that they could

have been prohibitive.

MR BENNETT:

That's correct.

MR COWLING:

Are there direct selling organizations

not represented by your group?

MR BENNETT:

Yes, they have to qualify for membership,

and there are many who dont qualify for membership in our organization for a number of reasons. One of the first one would think of would be the bread companies; they have their own association and milk companies are another. Then we think about magazine salesmen; now first of all, they do not qualify in most cases because the product is not made in Canada. We are Canadian manufacturers; this is a basic requirement for us. There are other companies that we wont take into the association because we dont like the way they do business. I dont mean to say we're stuffy, but a company comes up, for instance, from the U.S.- they may have had a little trouble with the Food and Drug people down there, and we wait

until they're established here. We dont take in...

MR COWLING: You're very select.

MR BENNETT: We are. We have to be- that has to be our stand; but basically they have to be Canadian manufacturers. And as members of CMA, we must manufacture in Canada.

MR BECKETT: And you do operate in all the Provinces.
(yes) Now what about the eastern provinces, New Brunswick, Nova Scotia?

MR BENNETT: I think I'd say we paid no license fee; we pay in one or two towns in New Brunswick and a very small amount. In Nova Scotia, they have no license fees really. There are a few exceptions- Sydney is the exception and has a stiff license requirement, but in the Maritimes generally, the fees are very low and in most cases are non-existent.

MR BECKETT: Are they controlled by legislation?

MR BENNETT: Yes, I believe that's the case.

MR BECKETT: Well Mr Bennett, are there any other members here of your delegation that would like to speak.

MR LYMAN: I would like to refer back to whether or not the \$50 for instance, is in many instances the case once again of the woman who is selling merchandise, can be prohibitive. In most cases in regards to a beauty counselor it is.

MR BECKETT: That they couldnt afford to pay the \$50 fee? (yes) I think Mr Bennett said that the prevailing rate for those living a municipality was \$15.

MR LYMAN: With \$15, we would be happy; but if there was provincial legislation setting \$50 as a maximum, that would result in all municipalities imposing that as a maximum; in other words if the maximum became the minimum, it would be serious, but \$15 would be OK.

MR COWLING: As a general question, Mr Bennett, is this direct selling business as big as it used to be? Is it developing or is it staying the same? And I say that because of the people that call at our door. We dont seem to get as many call at the door as we used to- what is that a sign of?

MR BENNETT: I would answer that two ways; the members of the Direct Sellers Association represented here are old companies

- one of our members, not represented here today, has been over 90 years in business, our own company nearly 60; other companies varying amounts. The number of new ones does not seem to be large. I think that there are local ones- some small ones- not many of a national stature seem to be developing, but we have one outstanding one move up and establish manufacturing facilities in Canada in this past year with a new plant, I think in Barrie-West Bend Aluminum...

MR COWLING: Well is this more or less or about the same?

MR BENNETT: I would say it's about the same proportion. This is interesting that in the Province of Ontario, the members of our Association provide employment either full or part-time to about 10,000 people, most of whom live in small communities.

MR THOMAS: How many part time?

MR BENNETT: Well that's a difficult question for me to answer- I don't think I could answer that-could you answer that Mr Neal?

MR NEAL: I'm afraid I can't answer that or estimate it even- there are no statistics available- we're only going on comments and opinions from our own members. There are no statistics available in terms of total volume in terms of dollars of direct sales in the country although that in the States it says that direct sales account for 2% to 3% of the total retail volume of business; it could be roughly the same in Canada but there are no figures to substantiate it.

MR BECKETT: Thank you. Can any other members of your committee answer that?

MR HAWBRIGG: I think the gentlemen have already gathered just from our presence here today that we would like to impress you with the fact that there are good guys and there are bad guys in direct selling; and we would certainly like you to keep this in mind when you're drafting any legislation. I think the other point I would like to stress that has already been mentioned here and that is that in us you are dealing in long time established firms; we are not fly-by-nighters. We call theoretically about every six weeks- our company does anyway- in the sales territory, and we make our sale; we are hoping to develop customers- good customers, so that when we come around again, they will wel-

come us. We're not creaming nor skimming territory as some of what we call these bad guys do; we're in business to stay, therefore when you're drafting legislation, please don't make it difficult for us.

MR BECKETT: Would you have any objection then if they were bonded?

MR HAWBRIGG: Not as far as our company is concerned, no; as Charlie answered, Saskatchewan do it now, and as Mr Lyman said in their case, but we've never once had any occasion.

MR MORROW: The membership, Mr Chairman, of this Association is really not the type of salesmen that we need to bond; but there are other direct sellers that the bond would be a very good thing.

MR HAWBRIGG: This is an excellent point, Sir, but when we discussed it...of course we're involved because we're using the same method -direct selling- as other organizations. I think even in your licensing, and I think this will probably be true regardless of what steps have been taken- but these fly-by-night organizations in most cases won't pay this fee, so the only fees that will be collected will be from the old established firms.

MR BENNETT: This is a well taken point; we have had experience in the Province of Alberta a few years ago where some people moved out of Edmonton selling fancy watches, started to work Saskatoon, and they just left an uproar in every town they visited. And the immediate solution was to charge them all a \$500 license fee; of course they never came back. Of course we have to make sure we can get back in six or eight weeks from the time of our call.

MR GORDON: Mr Chairman, of course the Fuller Brush Company sell a lot of lines that have no connection with brushes.

MR HAWBRIGG: Oh yes, this is found in any industry. (discussion re lines and products of Fuller Brush)

MR BECKETT: Mr Bennett, we had a Brief with a suggestion of a fee to be charged to Jewellery Salesmen- what is your opinion of that? Should it be higher or lower or...?

MR BENNETT: I don't think I could....I'm not familiar with this- I don't know any company that sells jewellery. I don't think any one has ever applied for membership in our Association. I know nothing

about it- what it covers.

MR MORROW:

Has your membership been more extensive

than this at any time?

MR BENNETT:

Just about the same. I think we have a

booklet which pretty well describes us- this is put up by the Better Business Bureau.

MR BECKETT:

You might explain that- just what that

is, Mr Bennett.

MR BENNETT:

Well this is brought out by the Better

Business Bureau sent throughout the province on direct selling, which we think describes very well the position of the ethical direct seller and we certainly hope that describes us. We've provided this to a number of Chambers of Commerce and others who are interested in this sort of thing. It's a factual dissertation and describes very well, we think, our method of merchandising. There are some precautions in there which emphasizes the slogan you've all heard: "Investigate before you Invest!"

MR BECKETT:

Just one more question, Mr Bennett, how

many more associations are there in Ontario like yours?

MR BENNETT:

Well, Sir, I think we'd have to say

this is the only one; the common bond that these companies have is that they all sell with the same method. And as far as I know, there is no other association. There is a central registry for magazines.

MR MORROW:

It's a wonder the Hoover people aren't

in with you here.

MR BENNETT:

They no longer sell direct, Sir.

MR EVANS:

Mr Chairman, I'd like to ask how they

came about these fees; what did you base these fees on? Was it on population or sales or...

MR BENNETT:

Population and some other Provinces.

MR EVANS:

Well do you consider your experience in

sales too at any time?

MR BENNETT:

Do you mean an established person should

pay more than...

MR EVANS:

I mean...for instance 50,000 population

why you've got a fee of \$20; you must have some idea how much you sell in the area- what the total sales would be in a population of 50,000- you would probably know.

MR BENNETT: Yes we do. Generally speaking, of course in rural areas which are better sales outlets for us, this is taken from another province's scale. If I understood your question correctly, if you are dealing in an area with a population of 50,000, it would be a lot more profitable for a store, but the opposite is true for us; and in most cases in a population area of 50,000, for most of the member companies, there would be more than one man working; if it were a fruitful territory, there'd be more than one salesman.

MR BECKETT: Any other questions? Well Mr Bennett, thank you very much for coming, you and the other members of your committee and we will give your presentation our consideration.

MR BENNETT: Thank you very much, Sir, for your courtesy; we appreciate the privilege of being here and we appreciate very much the good questions that have been asked and the interest shown. Thank you very much, Gentlemen.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-FIRST MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 June 14th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROMAN

Secretary

MRS E. EATON

Asst. Secretary

J. A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

Mr S. Gordon Scott
 Miss Gladys Neale
 Mr John Irwin
 Mr Bernard McEvoy

PRESENTATION:

BRIEF - THE CANADIAN TEXTBOOK PUBLISHERS' INSTITUTE

THE CANADIAN TEXTBOOK PUBLISHERS' INSTITUTE

HOLLIS E. BECKETT, CHAIRMAN

MR BECKETT:

Well Gentlemen, we have a quorum; Mr Scott, would you like to introduce the members of your delegation to the Committee. I would like you to come up here to make your presentation.

MR SCOTT:

Mr Chairman and Gentlemen, the delegation is from the Canadian Textbook Publishers' Institute; the President is Miss Neale, who is a Director of the McMillan Co of Canada; to her right is Mr John Irwin, President of the Book Society of Canada and to her left is Mr Bernard McEvoy, Manager of the School Department of Longman's of Canada, and I am Gordon Scott, a Director of the Canadian Textbook Publishers' Institute, and General Manager of the House of Grant (Canada) Limited.

MR BECKETT:

Now you may start with your Brief or whichever you choose.

MR SCOTT:

I presume that you have read the Brief and I would possibly paraphrase it. First I would like to point out the Brief from the Institute represents most of the companies in Canada who publish school text books in the English language; some of these companies also publish books of a general nature which are sold through book stores and to public libraries. Secondly the Brief is submitted on behalf of those members of the Textbook Publishers' Institute who do not have any part in the actual manufacturing of books in respect to type-setting, printing or any process which could be construed as a manufacturer of books. We have made this point because the term "publisher" and "printer" from its ancient heritage is often confused. Book publishers today do not for the most part, do not manufacture books; they limit their activities to securing manuscripts, in our case from school teachers and school inspectors, educationists, working with these people and with artists; and ultimately the textbook, such as the speller etc, is manufactured by outside manufacturing concerns. They are let out by tender to typesetters, printers and binders and the manufactured product is produced. The members of the Association are listed on Section 3 of the Brief. I would say in all honesty the Association does not represent 100% of the comp-

anies in this industry, but it does represent most of them. The Brief, Gentlemen, is to call attention to what the Institute believes is an inequitable situation in business assessments. This is covered in the Assessment Act, Chapter 23, and in the Act, is point 9. We are covered under 9 (f) of the Act which reads: (page 3, para 2) "Every person.....of the assessed value." This means in practice that under this section, considering my company is in North York, we are liable for a business tax on 50% of the assessment made by the Assessment Department. Now the Canadian Textbook Institute respectfully points out ~~what~~ they believe to be inequities in this. And the first one I think is obvious, and we express it in 5 (a) of the Brief (reads page 3, 5 a) "The wording were printers." Historically when you published a book, you had machinery on your premises. It is pointed out that today, we are not manufacturers of books, and in that respect it is unreasonable to group us with printers or lithographers and with them to be subject to the same assessment, and who are undoubtedly altering their costs to us to meet that assessment. We would also point out in Section 9 (h), which, if you have the Act, Gentlemen, is on page 11 (reads page 4, para 2) "Every person carrying.....of the assessed value." In other words, if a newspaper is next door to my textbook publishing company, and we were assessed equally by the Assessment Branch of North York, we would be paying 30% more than they would. Now I have certainly nothing against newspapers, but I think it is manifestly unfair that two means of communication should be treated so differently. Our first point, Gentlemen, is in respect to school book prices, and I say this with all sincerity, that we are trying to maintain as low a possible cost for textbooks consistent with the high standard. I think it is fair to state that the Ontario Department of Education is rightly concerned about textbook costs, and we are trying to cooperate with them, at least in controlling the increase of these costs. We have many factors we cannot control. We cannot control paper costs, labour costs and we cannot control many marginal costs. In our minds, it is unwise to give us a relatively high assessment value provincially, and then there's another branch of the government asking us not to raise book costs. With this in mind, we respectfully suggest that the following

recommendations be considered by the Committee: (reads page 5, para 1) "The Canadian Textbook..... of the said Act." This may read something like this: Every person carrying on the business of operating a radio or television broadcasting station, or carrying on business as the publisher of a newspaper or as a non-manufacturing publisher of books in a city, for a sum equal to 35% and in any other municipality for a sum equal to 25% of the assessed value. Now that, Gentlemen, is the precis of our Brief for your consideration.

MR BECKETT: Would any Member of the Committee like to ask Mr Scott any questions?

MR COWLING: You mentioned about the number of members in your Association; do you have the majority of the people in this business

MR SCOTT: Yes we do, Sir.

MISS NEALE: We have 13 out of 16.

MR COWLING: What about the other 3? Why are they not in as members?

MR IRWIN: I can speak to this- the reason is that in our Constitution, we require that all members be willing to give certain statistics, and these three firms have as a policy and do not concur in this requirement and so are not eligible for membership.

MR SINGER: Do you know how much in dollars, Mr Scott, the difference in this assessment would make for the people you're talking about?

MR SCOTT: Since I do not know the total assessment for the members of the group, I can only speak for my own company.

MR SINGER: Well how much difference would it make to your own company?

MR SCOTT: To my own company, Sir, it would make a difference of about \$200-I'm a very small company. Our firm is a tiny textbook company with a very low gross; but to a large company, I would estimate it might make a difference of \$5,000 a year.

MR SINGER: A large company would do what sort of turnover a year?

MR SCOTT: Gross or net, Sir?

MR SINGER: Well, net, let us say.

MR SCOTT: Well on that I couldnt speak....

MR SINGER: Well, gross then.

MR SCOTT: Well I think there are some that are

certainly doing a million or so gross a year- is that correct, Madame President?

MR IRWIN: There are some that are doing \$3 million.

MR SCOTT: They're very secretive about their gross as I mentioned. I can only speak for my own company-our own net is 4% and we gross \$220,000 a year.

MR SINGER: Really then, we're talking about a question of principle rather than a question of substantially reducing your operating costs.

MR SCOTT: I'll say there's a bigger factor of principle than operating costs although mind you, anything that we can do to help reduce costs today is of great importance.

MR SINGER: Yes, but \$5,000 in a million dollar gross isnt very much-let us say it isnt going to reduce the price of any textbook very much.

MR SCOTT: \$5,000 in a net of \$40,000 would be quite a thing though.

MR SINGER: Yes, but we're translating figures too quickly, from net to gross and from gross to net.

MR SCOTT: I agree with you, Sir, that the principle is the major factor.

MR SINGER: Yes, and I agree with you; I agree with these representations that there's no logic in this.

MR SCOTT: There is something else I'd like to mention, Gentlemen; it's not in my Brief but it is in the Act. Section 9 (n) - "Every person carrying on the business of a lithographer..... skating rink or other places of amusement..... or restaurant or eating house,.....for a sum equal to 25%." I would point out that

frankly we are paying twice the assessed value of a burlesque theatre; and I don't argue against burlesque theatres either but I feel that we should be assessed at the lesser rate. I feel that the matter was based on the fact that when the Act was designed, printers and publishers were undoubtedly synonymous terms; and today in the main in the bookfield, they are not.

MR SINGER: Would you have any objection if printers and publishers and most other categories were all taxed at the same level? Or do you think they should have different treatment from the other groups in your own category.

MR SCOTT: Well I suppose I should say what level?

MR SINGER: Well if an equitable figure was struck across the board- I don't know if it would be 35% or 45%.

MR SCOTT: Of course I don't know on what basis this was drawn up; we discussed it today- were they drawn up on the basis of what you draw on municipal services? In other words was it based on the fact that a factory with machinery perhaps would logically draw on fire services more; or was it based more on what you can pay- what the trade will bear? I don't know what the basis was, quite honestly.

MR SINGER: I'm afraid none of us were here when it was designed.

MR BECKETT: Mr Scott, it might be on the basis of what the trade will bear when you think of distilleries- 150%.

MR SCOTT: But brewers only 75%, that's funny. I think...providing the figure were a better figure, I certainly would not discriminate against lithographers and printers because after all is said and done, we have to pay them.

MR EVANS: Do you think that selling services should be compared with selling merchandise, as far as taxes.

MR SCOTT: You mean the restaurant is a service or a hotel (yes) I feel that selling a product has its drawbacks also for example take our business; we have high school text books sales coming up right now. We have to assess our printings; text books sales in high schools go to their peak in August, just like this (demonstrates)

and then fall like this; what we don't sell by the end of August or the very first of September, remain in our warehouse until the following spring. I should also point out that as textbook publishers, we do something else that perhaps isn't fully appreciated; that before our books are authorized by the Government of Ontario, or as far as that goes, any other Province, we must produce the book, and then take our chances on authorization, and no one can produce a book such as this without the initial investment of \$20,000. And we must print the book and then get Government approval.

MR SINGER: Will the Government not approve the galley forms?

MISS NEALE: No they will not. We have made representation to the Division of Curriculum that they might approve perhaps where we can show, well an almost finished book without actually going to press, but to date we have not been successful.

MR COWLING: Well, Mr Scott, you say the basis of assessment for your industry in the Assessment Act is outdated. (yes) Where it used to be as included there, it is not now.

MR SCOTT: The supposition doesn't exist now.

MR COWLING: And the reason I say that, for example, we've heard from the grocers - the grocers say that the wholesale grocery business is practically non-existent, and yet wholesale grocers are being charged at the rate of 75%, and they should be on the basis of the retail grocers; there are several inequities in the Act just because of time - time has changed the situation.

MR SCOTT: Yes, Sir and I think we are in the same position. We realize there are many Acts now not affecting our business; I believe this and I think it could be proven that textbook publishing in Canada had just started - why even after World War Two, well over half the text books used in this Province were American imports. And sincerely it is a marginal business. We are under attack - I think it's fair to say this - from the public and some political forces about textbook prices, I think unfairly. And we draw much of our money from the Province of Ontario because after all is said and done, it's the \$3 per pupil per year

based on average attendance that covers most approved text books. If that money be drawn, and we are quite correctly concerned on text book prices, that we have a good argument that it is hard to tell us to cut on one side and yet see something inequitable on the other side.

MR COWLING: Are there many textbooks coming in from the States today? Into Ontario. (no) Are they all Canadian made?

MR IRWIN: In Ontario, not all, I think about 90% are. The only thing I can think of is the odd book for Grade 13. Without exception all of the books other than some Grade 13 are Canadian.... are of Canadian origin or are available.

MR BECKETT: What about the other Provinces, Mr Scott, what is the basis of assessment?

MR SCOTT: Sir, I do not know- does anyone here have any information on the other Provinces. There are of course no publishers to speak of except in Montreal. I would say that at least 99% of textbook publishing is in Metro.

MR COWLING: In other words then you supply Alberta and British Columbia.

MR SCOTT: Yes, we operate an extensive field staff that we select from schools; in most cases we try to procure school teachers- it's becoming increasingly difficult too, because their salaries have gone up- they don't sell, because there isn't any direct selling of course, but they call, in the other provinces, at Provincial level only, since they have the single adoptive system and we don't. And in due time the Provinces select their Readers and Spellers from that type of service. So we are the suppliers of Newfoundland and B.C, yes Sir.

MR MCEVOY: Toronto is the centre of the English speaking book publishing industry in Canada. There is only one other English speaking publisher of any other kind and they are in Galt...

MR SCOTT: They're not producing textbooks. This is logical, Sir, because the printing trades are here; the arts which we work with closely and the market is here of course, obviously; and of course our biggest contact must be Ontario. We have a peculiar situation- if Ontario won't take a book, it's often hard to get another province

to take the book.

MR COWLING: The other Provinces then wont accept it; is that it?

MR SCOTT: Well not quite that; but the market is so big in this Province as compared to the other Provinces- not just big in population either- if you took the English speaking population as being over 13 million, this is English speaking wise less than half; there is no question of it marketwise- it is more than half. In Newfoundland, New Brunswick, are not good customers textbook wise- they havent the money which is a very good reason.

MR EVANS: I take it, Mr Chairman, they feel they should be assessed on the same basis as the newspapers.

MR SCOTT: Yes, Sir, that is our recommendation.

MR BECKETT: Would you have anything to say about the basis on which business taxes are levied?

MR SCOTT: Well, Sir, it might be presumptuous of me to say very much about the Act; I have read the Act along with other members of our Association, and it's hard to figure out what it is based on...I, myself, would wonder why it wasnt put on the basis of net profits, but I suppose the municipalities would argue against that. Paradoxically enough, when net profits go down and unemployment goes up, then municipal services go up; and although in a sense it is an equitable measure, I can see where the municipalities would scream murder. I just think, too, it needs updating at least.

MR BECKETT: In what respect though? On what basis- percentages or.....?

MR SCOTT: Well first of all, to redefine the categories, there are business today that didnt then exist- I'm sure that has been brought up- for example, I wonder about mobile restaurants which come around to my door every day and the great change in business since the Act was designed- the great streamlining- and the changes in the original concept of the industries- as ours has changed. It's a great problem; but some redefinition of the categories to find out percentagewise- I admit it is a great and difficult problem.

MR EVANS: On that Brief this morning, Mr Chairman, we read, their recommendations were that newspapers should be on the same basis.

MR SCOTT: I think, Mr Chairman, that one point is foremost here is this- it is the hardest thing to understand how newspapers and book publishers can be separated so much because the newspapers might print a book-it's been done. Also small newspapers print advertising; they're not just newspapers. And I frankly cant see why a book publisher should be discriminated against in favour of newspapers.

MR BECKETT: Have the Members of the Committee any other questions for Mr Scott? Mr Scott would any other members of your delegation like to speak?

MR SCOTT: Miss Neal would you like to comment?
(no) Mr Irwin? Mr McEvoy? (no)

MR BECKETT: I thank you very much, Mr Scott and members of your delegation for coming; we will take this into consideration and if at any future date you have some other suggestions, please send them along.

MR SCOTT: Thank you very kindly, Sir.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-SECOND MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

WEDNESDAY,
 June 20th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

Russel Little
 Elliot Harrington
 James McCallum
 Charles Hoover
 Andrew McClure
 Wilbur Barkey
 Jack Paulger
 Donald Middleton

PRESENTATION:

BRIEF - SCARBOROUGH PARADES

THE SCARBOROUGH FARMERSHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Mr Little, would you like to introduce the members of your delegation to the Committee.

MR LITTLE: Yes, Sir. First there is Mr McCallum, our Counsel, next to him is Mr Hoover, Member of our Assessment Committee, then Mr McClure, a member of our committee, Mr Harrington who is President of our organization, Mr Paulger, an interested member; Mr Barkey and I dont need to introduce Mr Middleton-he's from the Federation of Agriculture.

MR BECKETT: Thank you. Now Mr Little who will be your spokesman?

MR LITTLE: Mr McCallum will be our spokesman.

MR BECKETT: Mr McCallum, would you like to come up here and....

MR LITTLE: Well, Mr Chairman, I'd be glad to...the only thing that occurred to me is I think those that are her with me were rather keen that your Committee would hear first from Mr Middleton for the Federation; I think their thought was that they wanted then to tell you why they sided with Mr Middleton, and then I would like to make two other points on their behalf. If it would otherwise fit in with your schedule, we would ask you to do it that way.

MR BECKETT: All right, Mr Middleton, would you come up here please.

MR MIDDLETON: Well, Mr Chairman and Gentlemen, it is not our intention to bring our submission before you this morning; it has been placed in your hands; it just so happens that the Scarborough Farmers got organized ahead of us to appear before you as a Committee, and they liked some of the things we said in our Brief from the Federation of Agriculture, so for that reason, we would like to leave our Brief as written before you- I believe you had an opportunity to see it, and we will be appearing, we hope, before you as a Committee of the Federation to discuss those points within the Brief; so that the two additional points the Scarborough Farmers wish to bring before you this morning...the discussion of our Brief will come at your request when we will either bring

the full committee of the Federation to discuss our Brief with you.

MR BECKETT: That's fine; thanks, Mr Middleton.

Mrs Rowan, have we fixed a date for the Federation to come?

MR ROWAN: No, we havent as yet.

MR THOMAS: Has the Assessors Union shown any interest in this, Mr Middleton?

MR MIDDLETON: I think Mr Cowling is perhaps in as good a position as any to answer that question; we worked with Mr Cowling's Committee- the Municipal Advisory Committee-along with the members of the Farmer's Union; to my knowledge- I think you realize they are two separate organizations- to my knowledge they have not made a move in this area; that's all I can say in this regard.

MR COWLING: Mr Chairman, the Farmer's Union did co-operate with the Federation and also with the Municipal Advisory Committee as members in bringing forward some suggestions in connection with farm taxation generally; and these thought were put before the Minister of Municipal Affairs in the form of recommendations and he is considering them. They were both represented on the Municipal Advisory Committee.

MR MIDDLETON: I would say one thing has happened in the meantime which I think we might as well face very directly, where the Farmer's Union and Federation were at that time moving together, interaction between the organizations has precluded any further moving together, so that our statement will be completely independent of theirs.

MR BECKETT: Then you wouldnt have any knowledge, Mr Middleton, whether they will put in a Brief.

MR MIDDLETON: I have no direct knowledge, but my information is that to date they have not done anything in this area.

MR BECKETT: Well we'll let you know then some day- a date next month. Thanks very much. All right Mr McCallum.

MR LITTLE: Mr Chairman, could I just say a word for a minute?

MR BECKETT: Very well. I might say that Mr Little was a member of Scarboro Township Council for years.

MR LITTLE: Thank you, Mr Chairman. I would just

like to say that this Association were organized in Scarboro about seven or eight years ago- about 1954- on a united we stand, divided fall basis. It was fairly successful at that time which lasted for about five years; and then we were in trouble again about three years ago and we reformed and since that, we've taken in a bigger territory- the organization now takes in all of York County, part of Pickering, part of Ontario County and part of Peel. We have representatives from -Gore, from Etobicoke, Vaughan, Markham, Pickering as well as Scarborough. We have farm members all through that area and I thought you might like to know just whom we represent. As a matter of fact we have 100% membership of the farmers of Scarborough and a very high membership in the other municipalities.

MR BECKETT: Have you seen the Brief of the Ontario Federation of Agriculture? (yes) And do you support that?

MR LITTLE: We support that...a part that we havent considered- I think I'll leave that to our Counsel to explain the parts that we fully concur on it; and some parts that we havent considered the matter where they are more interested in assessment itself than they are in the size of the municipalities. I may have something to say later about one point if we have time, but I'll let Mr McCallum speak now.

MR BECKETT: One more question, would you like to come back when their Brief is heard by the Committee?

MR LITTLE: Yes I would.

MR BECKETT: Mrs Rowan, would you please then notify

Mr Little.

MR LITTLE: Or Mr Henderson. We'd also like to have a Brief to come with ourselves; we havent a Brief today but at some later time, if that is all right.

MR BECKETT: That's fine.

MR MORROW: Maybe you could present your Brief right along after the other Brief- the Brief from the Federation.

MR LITTLE: That could be possible; if we had it ready we could follow up with it. Thank you, Mr Chairman.

MR BECKETT: Mr McCallum, before you start, I'm going to ask Mrs Rowan if she would read our terms of reference so that

your members can hear them.

MR ROWIN:

(reads) "A Select Committee of this House be appointed to inquire into the Municipal Act of the Province and related Acts, including the Assessment Act, The Department of Municipal Affairs Act, The Local Improvement Act, The Ontario Municipal Board Act, the Planning Act and the regulations made thereunder, for the purposes of, modernizing, consolidating and simplifying such Acts and regulations and making such recommendations as may be necessary for their improvement!"

MR BECKETT:

Just to give you an idea what this Committee is attempting to do and we hope we'll do so. Well you may carry on Mr McCallum in any way you like. There is only one thing-you might cite for the Committee- What is your present position in regard to the 1963 Assessment?

MR MCCALLUM:

The Scarborough Farmers, for whom I have acted for some years are in this position; they have succeeded at long last in making peace with the Metropolitan Toronto authorities, and we hope that the new assessment when it comes out will be based on the formula that we understand from Mr Gray will now be accepted; which is in fact the formula which the courts had enunciated on several occasions, but we could not persuade Mr Gray it should be acceptable in the municipality of Metropolitan Toronto. We have every reason to believe that when this new assessment comes out, it will be at the rate that has been set by the courts; and that moreover this formula for peace, as we call it, will exist so long as the circumstances remain comparable-well on to the future, at least in Metropolitan Toronto.

MR BECKETT:

Mr McCallum, would that be the formula fixed by Judge McDonough?

MR MCCALLUM:

It is, Sir; we've called it the McDonough Formula; it was first enunciated by the solicitors for Metropolitan Toronto and ourselves while on the case that was in the nature of a test case coming before His Honour, Judge McDonough, by way of appeal in the Court of Revision; this is some years ago. While that was effected by way of a settlement, and we thought would then be a formula for peace; but we found out that it wasn't because though we had at that point a test case for that year in front of His Honour, we had also for the follow-

owing year another set of cases, some 54 cases, in front of the Court of Revision; and when discussing the settlement with the Metropolitan Corporation in respect to the case before His Honour, Judge McDonough, His Honour had been very pointed in his comments, having heard the evidence, and had done as much as any one could possibly do in his official position to suggest to the parties that there had better be a settlement or they could take what was going to come from him; and that got through to the Metropolitan solicitor with great clarity, and a settlement was then initiated. We didn't know at the time, but we found out to our surprise subsequently, that at that precise moment, Mr A D J Gray was not in town and we had stipulated then as best we could, that it should be a settlement of that year before the County Court Judge, and it would be recommended by both sides that it be taken to the lower tribunal the following year, that is to say, the Court of Revision, and it would serve as the formula for settlement at that level. But when Mr Gray got back to town, he advised his solicitors they had no authority to make a settlement of that kind and refused to let them settle. And away we went again. The ones before the County Court were settled and he couldn't do anything about that because his solicitors had sufficient authority to do that; but they couldn't make it for the following year at the lower level, so we started through with that series of cases, and as the history proves, they, in subsequent years have been fought on various levels; this Government took our plight to heart on several occasions, and endeavoured to effect amendments to the legislation which would be of assistance, not only to us but throughout the Province, were helpful to all farmers, but it didn't help us on our litigation, and we finally got to the position where we got to the Ontario Municipal Board; we had by way of appeal by that time, which I will refer to subsequently, with your permission, Mr Chairman, we got into the very nice position from our point of view that it was Mr Gray who was appealing which is of great significance which I will subsequently try to point out for you. We went to the Ontario Municipal Board, and before that Board, they came in with a finding, after having heard all sides on its merits, at a sum which was acceptable to us which had been in effect the very finding of His Honour, Judge McDonough, and His Honour, Judge Weaver; and we then said to Mr Gray, now there's a

finding at the very highest of our Assessment Tribunals; now let us use that as the basis; I wont tell you it took some months, but finally, it appears to have been accepted, and we hope that that will constitute a basis for future assessments and that he will not in future, so far as we are concerned, unless circumstances change radically, endeavour to hit us with a new assessment and make us go all the way through this again next year.

MR BECKETT:

Thank you. I might say to the Members of the Committee that Mr McCallum is not only a successful lawyer, but has had the practical experience of being on Scarboro Council and Scarboro Planning Board; so he knows how these things work.

MR SINGER:

Can you tell us very briefly, Mr McCallum, what the McDonough formula is?

MR MCCALLUM:

I think I can, Sir. The McDonough formula was the first time in Metropolitan Toronto any recognition so far as we as farmers had been given to the quality of the soil; one of the basic problems that we have always faced was that there were assessments placed on farm lands without regard to what they would produce by way of farm products. This, then, was its first recognition, and it provided in effect that there would be on the very best production land, an assessment of \$110 an acre; and that on a second grade land, there would be an assessment of \$75 an acre; and then down from there on waste or bush land, at \$10; I just dont remember the precise figures. The figures that are there involved, I would like to point out, are those that came about in this Metropolitan area by way of a settlement at a time when we were assessed for several times that sum per acre; and it was...

MR SINGER:

But Gray was off on a tangent that this was developable land.

MR MCCALLUM:

That was his whole proposition, that we were sitting on a gold mine and he was going to tax it accordingly. But the Legislature had said, as we interpreted the Act, that when we were farming, and honestly farming by people who were farmers, that we were to be assessed having regard only to the value of that property as a farm. Mr Gray's contention throughout the piece was that that didnt mean what it said at all, that it meant if your farm was near services or it might

start to get near services, it had an innate or inherent value that made it go away up; this was driving the farmers off the farm. We went to the Court of Appeal on one appeal on that very point, and we had the Court of Appeal inform him that the legislation meant exactly what it said when they said tax it as a farm, that is what they meant. But we had to go that far in order to have that made clear to him that that was what it meant.

MR THOMAS:

He was assessing it on the potential.

MR MCCALLUM:

He was, Sir, undoubtedly that is what he was doing.

MR SINGER:

You had trouble with the words "principal occupation" didn't you?

MR MCCALLUM:

There was some trouble as I understand with people other than those that I represent.

MR SINGER:

Your clients are all full time farmers?

MR MCCALLUM:

Yes, and we don't really have any problem over that at all; nor has it ever been an issue; it's always been conceded.

MR EVANS:

Mr Chairman, I was just wondering, Mr Middleton mentioned \$110 an acre; what kind of land would you have assessed for \$110-for farming purposes.

MR MCCALLUM:

It was the best land we have but I wanted to point out that it came about as a result of a settlement between Metropolitan Toronto, and it is completely out of line with the Province; it doesn't represent a decision as such, on the value of the land for farming purposes anywhere else; it was, as will be revealed- it was kept there by the Ontario Municipal Board by the circumstance that Mr Gray was the appellant and he wasn't able to establish that it should have a lower value, and therefore the Board said: There's no reason why we should upset the circumstances that exist at the moment. This is complicated, and perhaps difficult to understand; I want to make this point, that it won't have any bearing under these circumstances on the rest of the Province as such; in other words, it would not be res judicata in any sense of the word, even if the Act so provided, for a value of that amount throughout the rest of the Province. And, Mr Chairman, part of my remarks this morning would be directed to the problem that we face and have faced

in the legal consequences of who is appellant before the various tribunals, and perhaps if I may just proceed with my remarks to you this morning, it will become subsequently clear the significance I attach to this, and your problem will then be better answered, I think, as to how we should arrive at, to what I'm sure to most other people in the Province is much much too high, and much higher than exists anywhere, the \$110. I'll try to answer it if I may.

MR BECKETT:

Perhaps it would be better if you proceed then and we can ask the questions afterwards.

MR MCCALLUM:

In making my submission this morning, I have not had time to prepare a proper submission; I got together ten copies of some of the comments I wish to make. I would like to preface my remarks, Mr Chairman, by saying that we hope that this will be in the nature of a preliminary submission to your Committee, with the thought in mind that the changes that we at the moment seek to make, are such that require the refinements of the wording in the Act; we had hoped to come here and give you the gist of our submission and ask your help in framing it, so that we might come back subsequently and report right in a full submission to you, Sir, where we would have to give you the very wording that we would request to be put into the Act as it now stands so as to effect the amendments which we think are so desirable.

MR CHAIRMAN:

And dealing with just the one particular Section of the Act, I would think?

MR MCCALLUM:

Yes, primarily, Sir, just the part of the Assessment Act which deals with the assessment of farms. We had contemplated the possibility that the Federation, through Mr Middleton, would make their submission this morning, and we have been furnished with copies of their submission, and we emphatically support this stand taken by the Federation, particularly as it applies to their suggestion that farm lands be given a fixed assessment for tax, while at the same time applying "the education tax to that portion of the farm assessment which pertains to the farm house." We want to incorporate that aspect in our submission too, and if you will permit we want to expound on that aspect of the matter today, because we think it's vital-not only for ourselves,

I may say, but it is our considered opinion on the broad base we have that this will be effective right across the Province. These then are our two preliminary submissions, first, that the Assessment Act be amended so as to provide as follows: Land classified as farm land is exempt from taxation for school purposes; for purposes of this section, land in excess of ten acres may be classified as farm land so long as it is used only for farm purposes by the owner thereof or his tenant; provided however that this classification shall not extend to an area of ten acres or less, nor to the residences of the owner, tenants, employees and their families, and the buildings and improvements necessary for the farming operation of the farm lands situate thereon. Mr Chairman, that's not a quote from anything, I read it slowly because I had endeavoured to put our thoughts, as it were, in some sort of an amendment. I've tried to express what we're getting at in this way, and I'm sure it's full of holes but it probably gives you the impression. May I just expand on it in this sense. What we seek to say is that that part of the assessment that is attributable to school purposes, as that is used in the Act, ought not to apply to the farmers stock in trade which is his land, just as much as the implements in his shed are not now assessed, so too in our submission, that part of his land which exceeds 10 acres, and his buildings and so on that are necessary for the farming operation, ought not to bear a tax for school purposes.

MR BECKETT: Well, Mr McCallum, would that then be an amendment to Section 37?

MR MCCALLUM: It might, Mr Beckett, might permit of an amendment to Section 37, but that would get us into a complication, as I see it, that we would be asking a Municipal Council, first of all, to do it, and you will appreciate that there some significant differences.

MR BECKETT: Well, Mr McCallum, under Section 37, the "Council shall before the 1st day of March pass a bylaw declaring what part, if any, of such lands are exempt." Shall.

MR MCCALLUM: Yes, I agree with you, but it requires the matter to be gone over each year; it allows it to be a matter of discretion in the municipality, and the....

MR SINGER:

How can it be a matter of discretion

-it is a matter of fact surely.

MR MCCALLUM:

The Section provides for the by-law being required to be passed each year as I understand it, before the 1st day of March, dont you see; and it's our view that this thing that we seek is of the real nature, not one where you give today and take tomorrow. If you say that only those lands upon which your house sits and ten acres, we'll say that form the part of your house, that that will be assessed as my fellows are throughout the Province for school purposes and for all purposes; that you can then properly disregard an assessment on this for school purposes and the tax for school purposes, in respect to what forms the balance of my producing unit; because it has no relation in our respectful submission to school costs....

MR COWLING:

You say it shouldnt be up to the discretion of the Local Council- it should be mandatory across the Province.

MR MCCALLUM:

Yes, and a part of your legislation, that otherwise we run into political problems, that let me say this once that if it were a matter of discretion in the municipality of Metropolitan Toronto whereby a bylaw could be enacted, it would never be enacted; and there might be some who would be seriously hurt. I have every reason to believe this could exist in other municipalities, particularly where those of us that have farms, depend on such a minority. It is to be hoped therefore that this is a matter of such basic concept to the Assessment Act, that it can properly form a part of the Act and let's not leave it up to today we will and tomorrow we wont.

MR BECKETT:

But Mr McCallum, apart from the by-law being passed annually, if schools are added to the words: water works, fire protection, garbage etc, they shall pass the by-law, then if they dont, under Subsection 4, you have the right of appeal.

MR MCCALLUM:

Yes we have, Mr Chairman, but what we want, and we think it's pretty important from a farmer's point of view, that it be a part of the legislation and not just a right to appeal. Our experience with appeals has been long, costly and very unhappy; and the observations I have to make about those farmers who are not a part even

of the group that I am representing, and all the representations we've had from them in the years we've been fighting and with all the publicity being given to it, is that individual farmers throughout the Province are completely and utterly loath to appeal and get into these battles; and it's most vital, therefore, that it be their right under the legislation—that this thing be given to them; because even if the Local Council didn't and they appealed, they are loath to embark on that sort of litigation which pitches them against the assessor, and as it were, the forces of municipal government.

MR COWLING: Having been a member of the local council, you're sold on this idea. (I am) That the government should ~~take~~ it away from the local council and handle it on a provincial wide basis.

MR MCCALLUM: I am; wherever it could be, by any stretch of the imagination, lead to abuse; I think it a proper function of the Provincial Legislature to say that we will enact that part of the law that we think should apply universally, and not leave that to the local people because I don't think that is really their function. And I'm saying to you, Sir, that our base here in this proposition I make this morning is that broad and that universal.

MR SINGER: And what is the purpose... I don't suppose that anybody can really say, why this Section 37 is worded the way it is presently. They say where certain circumstances exist, council shall pass a by-law. They could just have easily have said that when certain circumstances exist, the assessment shall take place on a certain basis, which is what you're saying.

MR MCCALLUM: Yes, yes they do; they unquestionably had in mind that different municipalities in relation to the things mentioned here, would have different circumstances. For instance, Sir, where where you say you are exempt from water works, or fire protection, it is quite conceivable that a municipality might have such fire protection that they wanted to and they might think it unjust that the farmers shouldn't pay for it; and this enables them to do that, because they differ throughout—water works, fire protection, garbage collection—those are matters that change from each municipality throughout the Province, and in every one you can see how the local people must be given the right to determine

whether that will apply. It is my suggestion to you that it isn't possible to deal with that on a broad basis right across the Province. And that can be taken in contra-distinction to what I have suggested to you, which is on our proposal it is completely possible to say that part of a farmer's production unit which exceeds the ten acres that his house is located on, should not bear school costs; look at the disadvantage that we find ourselves here with a man who lives right next door and he has a lovely house- he lives on a county road and he goes to work in town every day, we'll say and he does some gardening out in the back- he has as many children as I have, but I am assessed and taxed on my 100 acres of land. I don't mind being treated equally, in effect is our argument, if you put me- carve me out a 10-acre piece and put my buildings and my house on it- that's fair. Compare me then with my neighbour because I am; it's not apples and oranges. I am completely comparable then. But as it stands at the moment, I am being treated as if I were comparable, when in fact, I'm not; and a man with 100 or 200 acres from which he derives his living, is not comparable to the man who is able to use his for his hands to make a living and that's not taxed.

MR SINGER: What about the man who has his factory on 100 acres? Is that not comparable?

MR MCCALLUM: Sure in this sense; if he has a factory on his 100 acres, then he's able to use it, not in the sense of having the soil produce it- he has his machines and his other things come in, and traditionally, this province and every province I can find out- I've looked at the legislation- have felt that those industrialists shall have to bear their portion and even, as you very well know, Sir, for school costs, when they give no children to the municipality.

MR SINGER: I was just trying to get the equity brought out; the principle of equity that you are arguing for farmers doesn't apply across the board.

MR MCCALLUM: It can't possibly- I make no bones about it; we either are a group who have traditionally been recognized and accorded some privilege from the burden of taxation or you'd run us out of the country, as it were. I think....

MR SINGER: Special privilege.

MR MCCALLUM: I think so, Sir, and I think that your legislation throughout the years has recognized that- here in Ontario, and indeed in every other province. I don't see them doing that yet for the industrialists - maybe that day will come.

MR SINGER: Well there are more rural members, more farm members in most Legislatures than there are any others.

MR MCCALLUM: Well I'm very pleased as I appear here this morning that that is the case.

MR BECKETT: Well, Mr McCallum in the last two lines of Section 37, subsection (1) "with regard being had in determining such exemptions, if any advantage direct or indirect for such lands arising from such expenditure or any of them..." would there be in regard to schools any advantage of the farm being close to the school- does it follow that last part of 37?

MR MCCALLUM: Not likely in my submission, Sir. I think that the lines that you have read lend weight to my earlier statement that wherever it is a matter of difference from municipality to municipality, such as whether my garbage is collected and therefore, even though I'm on a farm, I ought not to be exempt from the payment of the rate in connection with this. But if I have available water works then the local municipality presumably are not going to permit me to be exempted-that differs from the situation where the school might be half a mile or a mile and I get on the bus in any event and go down. It isn't the contribution the school makes to my farm which may be different; it doesn't add anything to the value of my farm, but it does add something that I can afford to pay for if I am physically getting garbage collection. I think that's the reason behind this Section of the Act as it stands at the moment. I believe the Legislature felt that wherever, as in this case, things could be dealt with on a basis of where some farmers would have it and others wouldn't and they could make provision for it. You can't do that on this other basis. And if it can be dealt with, Mr Chairman, it might better be dealt with under that Section of the Act that provides exemptions from tax, or all those for whom exemptions are intended, in other words, Section 4; and the sort of thing we contemplate

it is in part expressed, where you see an exemption in Subsection 4, of 4 where it says the buildings and grounds of, and attached to, or otherwise bona fide used in connection with and for the purposes of a university, high school etc, and then they go on to say that it does not apply to lands rented or leased to an educational institution. Throughout Section 4, exemptions are accorded to those in the community throughout the Province that the Legislature decided ought not to have the full taxation; and it would be my submission, Sir, that an amendment of this kind would properly come under 4 and be dealt with accordingly.

MR BECKETT: You're not content with adding the word "school" to 37- the local autonomy then can deal with it in the form of by-law.

MR MCCALLUM: No...and I cant emphasize too strongly- we...and I dont want to be put into the position ...and dont want you to take from what I said that it is a desire of ours to get away from local autonomy; it is our submission that this is not a matter that lends itself to that for the reasons I have given. It really doesnt take anything away; they have no such power at the moment, Sir. The question of an exemption from taxation to be done justly and fairly, in our submission, can properly be dealt with only across the Province, and ought not to be for you, yes, but for you, no. Exemptions are that sort of thing.

MR SINGER: You're talking about fixed assessments; do you plan to deal with that or...

MR MCCALLUM: I cannot; I did mention it because I was referring to that part of the Federation's Brief that mentioned it. I cant and wouldnt propose to deal with it other than if you will, to hear this comment, that from time to time suggestions have been made to our group with reference to that part of a fixed assessment and a cumulative assessment, as it were that....golf courses of course have it; and we have on every occasion and at every meeting, Sir, rejected that most emphatically; we think it not applicable to the farmers in the Province of Ontario. We have discussed it with other groups; we have known of other groups who have from time to time thought there was some merit in it, but we dont; and never in controversy have we failed to persuade the

the other groups that there is a real danger; we don't think it applies.

MR SINGER: So you discard that part?

MR MCCALLUM: Yes, we do but not without due consideration.

MR BECKETT: I might say, Mr McCallum that the City of Toronto has suggested this, that we have a fixed assessment, which is interesting...(reads) "The Assessment Commissioner has advised that there are a great many cases where property is held and used for a purpose which permits only a low assessment rate, e.g. residential purposes, and as a result of development of the area, is later sold for a price which is appropriate to a valuation for commercial or other higher price purposes. Under these circumstances, it is submitted that authority should be given to levy a tax, for a given period, on the difference between the assessment for residential purposes and the amount for which it would have been assessed, if used for the purpose for which it was ultimately sold."

MR MCCALLUM: Yes, I didn't know they had said that, but I am aware of that suggestion because it is implicit in the thing I have been discussing with Mr Singer, the proposition that exists and has ...I may say just this much about it without involved in a discussion of its merits...it has always meant to us that it was rejected, is that aspect which in effect says to the farmer: Whatever you've managed to save and whatever you've managed to hold on to, and whether this has been passed down to you from father to son or otherwise, and irrespective of the fact that we, in the Legislature, want to have agriculture kept on and if this is a form of keeping it on, we'll give you some assistance, nevertheless when the time comes to sell, we will, in effect, exert something in the nature of a capital gains tax because we, in effect, think you're sitting on a gold mine, and when the time comes that you are going to sell, we're going to collect taxes. True, you haven't used any of them you haven't used any of the facilities that others in the community have. You haven't had your fire protection, your police protection, your water, your sewers, your roads, your curbs; you haven't had any of those. You're a long way from them, but....

MR SINGER:

Nor have you wanted them.

MR MCCALLUM:

Nor have they wanted them- just exactly but development because it's coming might some day enable you to sell your farm for more than your father paid for it, and I'll tell you what we're going to do. We'll lie and wait for you until that day, and then we'll hit you as if you've had them all that time. That may be an undue exaggeration of the position, but it's the heart-felt position of those I speak for, that that's the end result of it.

MR SINGER:

Well Mr McCallum, surely when a municipality- Scarboro, for instance, moves water mains etc to the farms, the day that water main moves there, that farm increases in value; and if the scheme that you propound is in effect, the farmer is going to benefit very substantially at the cost of the municipality because he will then be in a position to sell his farm for subdivision and take advantage of these services.

MR MCCALLUM:

Well I suppose the same thing might be said of the man at the corner of Queen and Yonge who has had a little old store there for a great many years, and when he gets a chance to sell it, he'll be able to sell it for a lot more than that old brick and mortar is worth at the moment. And they're not taxing him on the basis of what it would be worth to be part of Eaton's or Simpson's; they're only taxing him having regard for his present use of the property, and you see, Sir, once you get into this, and you do it to the farmers, there are others in the community who ought logically to face the same thing; and if you're going to assess and tax, having regard to, not its present use but to its future use and its value sometime in the future, we will then make a radical change in the structure of our assessment.

MR SINGER:

Now , now, you're oversimplifying it; You're taxing the man in the little store at Queen and Yonge on land value basis on the one hand, the square foot basis that he should assess- the same basis as Eaton's for land; but you're suggesting that the farmer not be taxed on that same basis. His building differs, yes.

MR MCCALLUM:

Well I have been suggesting that the farmer be taxed as everybody else is under the Act, only taking away

from him the burden of the education tax, that part of his equipment or his producing unit that exceeds 10 acres, so as to take away from him that thing that distinguishes him from anyone else in the community, which is just a large area of land which grows grain or pastures cattle. It was our basic proposition that in that way, you make him for tax purposes, on his house and his barns and the ten acres that surrounds it, the same as his neighbours wherever they may be and on that basis, taxation can be equitable right across the piece; and this is without disturbing the basic concept of the Act. That, really, is the nub of our submission.

MR SINGER: But he will still not be taxed if your scheme pertains on the value in dollars of his acre compared with his neighbours.

MR MCCALLUM: Well he will be taxed, in our submission, in all other respects, for the value of what he has, except for school purposes, public or...school purposes.

MR SINGER: Which is about half the average taxes.

MR MCCALLUM: But that's all we seek to do; in every other respect in the municipality, we will do the same as our brothers do. We simply say that we have an encumbrance which isn't in any sense related to the burden imposed on us for school purposes. And may be just be like our neighbours who don't have that when it comes to have a tax for school purposes. And it was our thought- we are so grateful to get an opportunity to discuss it here today- that we could best achieve that by taking from us what distinguishes us from our neighbours.

MR SINGER: I can see a legitimate worry on the part of the farmer who has had his land handed down for several generations and who is a bona fide farmer. On the other hand if you make this suggestion as broad as you're suggesting- are you not likely to have- and I am suggesting you are likely to have people who will come along for very short periods of time, buy up farms, take advantage of this low assessment, farm it for a year or two or five, and then take their substantial profit and then go merrily on their way.

MR MCCALLUM: I don't know...frankly, the vice that you

that you seek to correct would, in my submission, would only properly be done by some other means, a capital gains tax; and I just say in conclusion Sir, that those matters that we're dealing with are related to assessment. And the moment you get into trying to make a person repay to society or the community what he had some benefit from in the future you are truly into a different field of taxation; at least it's one of those ...the most difficult ones, and I suggest to you that the impetus for this might have been found, in the sense of golf courses, where for reasons best known to the Legislature, they saw fit to do that for them and they thought, I guess, it was a jolly fine compromise to what to what they would otherwise face. But really that's not our position as farmers.

MR BECKETT:

Mr McCallum, it has been suggested that

farmers come under Section 39.

MR MCCALLUM:

Yes, Sir, I know that it has been suggested and I hope, although this wasn't part of our submission, I can in some way persuade you and the Members of this Committee that it's no part of our thinking that it come under 39, because it isn't analogous to a golf course. The only thing that we have like a golf course is a bunch of weeds, and something green from time to time, and land. We are not in any other way like the golf course- the golf course can be used today for a holding scheme such as was suggested by Mr Singer; and they can use it for that purpose as indeed they appear to be doing in the municipality of Metropolitan Toronto, and someday have that benefit. We're not. We can't afford to hold on to it for that purpose; as long as the farm must remain an economic unit for those of us engaged in it, we can't afford to pay what they can pay for golf courses and we can't afford to hold on to it, and it is a real bare recognition of the fact that in agriculture today, if you're honestly in agriculture, we need the help that you gave us when you said: We won't assess you for that value as long as you are a farmer, and it's that recognition, Mr Chairman, through you to Mr Singer, that was given many years ago by the Legislature, that we certainly now don't want to lose; and any suggestion that we go into Section 39 will lose it for us, Sir, because you're just deferring the payment. You're saying to us in all other respects: Fellows, you pay it. What

you did, you will be undoing....

MR SINGER: Oh, now, you say you're just deferring the payment; it's obvious that this land must go into development.

MR MCCALLUM: No, Sir, I'm not.

MR SINGER: You're not deferring, because you don't have to pay unless it goes into development.

MR MCCALLUM: No, no, with the greatest respect, no such thing. I'm saying that if this Legislature conferred on the farmers of Ontario an advantage in this sense, that they said wherever your land is being used for agricultural purposes only, we will assess it having regard to its value only for farm purposes....

MR BECKETT: A fixed assessment.

MR MCCALLUM: No, Sir, no with great respect, that isn't a fixed assessment. It says whatever its value is for farm purposes, that is what we will assess it at; but we'll take out of our consideration its value for subdivision, potential subdivisions, golf courses or anything else. Now that exists; that's a right that every farmer in Ontario has today; but if tomorrow, the Legislature turns around and says: You have that right today, but tomorrow, we're going to take it from you and in this sense- we're going to tax you as if you were something more than a farm, wherever it's applicable; but I'll tell you what we won't exact the dollars from you now; we'll wait until you sell it. That is the end result, Sir.

MR SINGER: You're saying just what I said earlier the day is going to come when it is going to be advantageous to sell it for development.

MR MCCALLUM: One never knows but despite that fact, that is the end result, that whatever you've done for all the farmers of Ontario, you then take from them, and there are many of them for whom development has no place and no price, at least not in the foreseeable future, but they're going to be affected unless you try to say only those with red hair around the Metropolitan area will be affected.

MR SINGER: Let me ask you another question- you represent the Scarborough Farmers....

MR MCCALLUM: Among others- I speak today for a much broader group.

MR SINGER: Well how many members are there in the group? Would it be 100 or 200.

MR MCCALLUM: Well I would say above 100- I'm not that familiar with them, but there are a ring of those in the Association that Mr Little explained in opening that goes much beyond Metropolitan Toronto, in fact it encompasses most of those areas in a broad path that would come right around from lake to lake, as it were around Metropolitan Toronto. And probably....

MR SINGER: A group though that are substantially in the path of obvious future development...and then you break down, as I understand it, with the Federation of Agriculture, who represent farmers who are very remote from urban type of development and who do talk about this fixed assessment.

MR MCCALLUM: Well you wait until they do, Sir- I say they don't and I say they don't submit as part of their Brief that there be a fixed assessment in the terms that you state.

MR SINGER: Well that is what I understood from the portion of their Brief...

MR MCCALLUM: Well in that sense I expect it would be misleading and perhaps that's what's led us on to this; I don't think that you will find when they submit their Brief, that they will advocate any part of what which Mr Beckett has referred to is best explained in Section 39 in relation to golf courses.

MR SINGER: Well we'll wait and see what they do say.

MR BECKETT: I think, Mr McCallum, in order to bear out what Mr Singer said about people buying a farm and taking advantage of it if he would hold it and only pay half of the taxes, couldn't we correct that by a definition of a farm or a farmer?

MR MCCALLUM: Yes, I believe it can be done in that way. If it was your intention to protect those who have been farmers for a long time and whose way of life it is, as distinct from those who seek to have the benefit of the legislation and the cloak of a farmer-

I think that probably can be done best by defining what a farmer is; the only thing I would respectfully point out to you is this past year, this government has, in my opinion, sought to give an advantage to those engaged honestly and clearly in agriculture throughout the Province, irrespective of how much money that person has in his pocket, if the land that he uses is honestly being put to agriculture pursuit and no other pursuit. That's your Act as it now stands and it does in fact benefit the farmer.

MR SINGER: This is your interpretation of the removal of the words "principal occupation", and I know- some of your delegation are from Pickering, and I know a lot of people around Pickering who are most concerned about this, who have farms but not as their principal occupation- I think their problems are different...I don't know.

MR MCCALLUM: Well, I don't know either, and I don't think it would be perhaps proper for me to comment. You were here when the legislation went through; I wasn't; and you may have your view of why it went through, but I think I'll stay away from that.

MR COWLING: Mr Chairman, we have a bona fide farmer on the Committee- Ron McNeil of Elgin, what do you think of this farm talk.

MR MCNEIL: I think it's good.

MR BECKETT: Mr McCallum, have you had an opportunity of reading Section 332 of the British Columbia Municipal Act where

MR MCCALLUM: Yes, I have, Mr Chairman, and perhaps just to conclude on this aspect of the matter, it was our comment that in the legislation of the Province of British Columbia, that there is a very good indication of the same sort of assistance that has been accorded the farmers there as we seek here; they have done it. The same thing has been accomplished in nearly every other province that we've been able to get legislation- copies of their legislation from. British Columbia do it almost in the manner we seek, that is they say, we will exempt from taxation for certain purposes that part of your unit that exceeds a certain area up to a certain sum. Alberta and Manitoba accord an exemption to the buildings, the house and so on used by the farmer and his farm buildings. Again, in our submission, in recognition of his

different status in the community and of his articulated system as long as they could. Saskatchewan also accords an exemption to the house. We think it's more realistic and that's why we chose the exemption and suggested it be accorded to that part of the land that it be an exemption for that part of the tax that would be directed to school purposes. But if I may, Mr Chairman, I would like to refer you and the Members of your Committee to the legislation...it had been suggested by you, Sir, I think...perhaps your Secretary might read or if you will I will read those parts of their Act so you'd have it on the record.

MR BECKETT: I think we should.

MR MCCALLUM: I'm reading then from the Municipal Act of the Province of British Columbia, the revised Statutes of 1960, Chapter 255, Section 332, starting at subsection 1.

MR BECKETT: Mr McCallum, this is part of the Municipal Act, not the Assessment Act.

MR MCCALLUM: Yes, I have noticed that- that sort of thing seems to extend through the other Provinces too. I'll continue then the quotation from the Act: "subject to this Section, the Assessor may classify land of five or more acres in area as farm land. Subsection 2. Before classifying any land as farm land, the Assessor may require the owner or lessee to submit evidence of the facts and the assessor shall be guided by the following facts: (a) the portion of the land actually under cultivation or used for agricultural, horticultural, poultry raising, stock raising, dairying, fur farming, or bee keeping purposes (b) the time devoted by its cultivation or use by the owner, his tenant, agent or servant (c) the relationship which the value of the products of such land bears to the area of the lands cultivated or used. Subsection 3 In the case of a parcel of land of 2 acres or more and less than 5 acres, which in the opinion of the assessor is bona fide used as a farm, the assessor may, notwithstanding the provisions of subsection 1, classify such land as farm land, if he is satisfied that the owner or occupier receives the greater part of his total annual income from such parcel of land, and of which fact, evidence is submitted to him under oath or statutory declaration by that owner or

occupier. Subsection 4, notwithstanding Section 3, (30) land classified by the assessor as farm land, while so classified, shall be assessed at the value that the same has for such purpose without regard to its value for other purposes. " Mr Chairman, may I break off for a moment to comment how similar that is to the very thing that the Province of Ontario have done here, that is to say that the farm shall be assessed for farm purposes, and having regard to its value as a farm and not to its value for subdivision purposes. Back then- Subsection 5 - notwithstanding the provision of subsection 1, where a parcel of land classified by the assessor as farm land, is reduced in area to less than 5 acres as a result of a portion being expropriated for highway purposes, the parcel so affected shall nevertheless be classified as farm land so long as the use of the land does not change.

MR BECKETT: I might say while we're on the subject that British Columbia followed up by having a Taxation Act, and they used the same language in their Taxation Act; I don't know whether you have read that.

MR MCCALLUM: I think I have, Sir, I'm digging for the Section right now.

MR EVANS: Mr Chairman, still the residence of a farmer, his taxes- his school taxes would be higher. He would be paying a higher school tax on his house than he ordinarily would if it was taken off the land and spread over the residential area...

MR BECKETT: In other words, somebody has to pick up...

MR EVANS: That's right and on his own house he'd have to pay a higher school tax.

MR BECKETT: Well you see it would work out that the municipality - if this was made law- all but the farmer's house and his ten acres would be free of school tax; the rate would have to go up-somebody would have to pay it.

MR MCCALLUM: I think we would have to work it out because we don't have the resources to do that; I think though that we are conscious of the fact that whatever the monies are that are for school purposes that those monies will be divided over that part of the

assessment roll in a ratable fashion which is then available for that purpose.

MR COWLING: In other words, everybody would pick up the slack. I don't think the individual, Art, as I understand it- it wouldn't come off the farm and go on the house...

MR EVANS: No I don't mean the whole amount would but....

MR MORROW: But some portion of it.

MR EVANS: Yes, some portion of it would. And I don't think that farm land should be assessed for school purposes. I know many municipalities are talking about \$110 an acre; I can't understand how a farmer can make a living and be assessed for \$110. I think it would be way out of line from what it is in most places. I can take you to some of the best farm land in Ontario at \$45 an acre.

MR MORROW: What would it be in the Holland Marsh?

MR EVANS: Now that is a different class of farming- there it is \$150 an acre there- but that's a very intensive use of the land, entirely different from this sort of farming.

MR BECKETT: But there is a difficulty unless you have a very fine definition of what's a farm and what's a farmer.

MR MCCALLUM: Well, with great respect, I don't think that you will find any problem if you base the concept of your Act, which is to assess it as a farm for farm purposes; any farmer will tell you that in purchasing the land in the Holland Marsh for his purposes which might indeed be farming, he will pay more and therefore his assessment will go up, and that will be reflected. That has worked for generations in the Province and will continue to work; there are different types of farming which warrant a higher price per acre, if that's the way you're looking at it, and which will be reflected in the assessment without complaint from any farmer, for he, too, recognizes it.

MR EVANS: That's why we shouldn't have fixed assessment.

MR MCCALLUM: That's right so far as the fixed assessment is concerned, how in the world are we ever going to fix a figure for everything and every variation of farming that one can conceive of

MR BECKETT:

Mr McCallum, all right, take the man across the road in the same township from the Holland Marsh; now he performs farming the same as the man in the Marsh; would you assess him the same as the man in the Marsh?

MR MCCALLUM:

Well at the present time, I would assess him in accordance with the Act, which would be in accordance with actual value as it may be ascertained. That will reflect all the characteristics of his farm and the farm across the road that you mentioned. If in ascertaining actual value, you have regard to the productivity of the land among other things; a person would pay more for the one in the Marsh than he would pay for unit across the street, then he would bear a higher assessment; to be borne in mind that it isn't a question of buying an acre of each; the problem is we're buying a production unit of farmland and, one can't be certain under those circumstances what you pay more for, but that's how I suggest it would be done. When you get away from actual value, where we'll end up then I don't know.

MR COWLING:

Are you satisfied with the definition of farm or farmer in the Act?

MR MCCALLUM:

No, no there isn't one in ours, Sir; there is no definition- precise definition of farm, farmer in our Act.

MR COWLING:

Don't you think we have to start from there pretty well...to define that?

MR MCCALLUM:

We will have to- we may well have to; I have suggested to you...in the amendment that I have suggested this morning, in part a definition, because I have said that land classified as farm land is exempt from taxation for school purposes. Now that's all embracing; then it becomes a matter of defining or classifying "farm land", and I have suggested that farm land for purposes of this- therefore what will be exempt for school purposes will only be that land which is in excess of ten acres, and only so long as it is used only for farm purposes, in other words, I'm coming back to the legislation that we have today- you must exceed ten acres, and you will enjoy this classification only so long as it is used for farm purposes. If it ceases, and this is what Mr Singer is concerned about, if it ceases tomorrow,

it will cease to enjoy that classification. It goes without classification because it is no longer used for farm purposes by the owner or his tenant; and I further added, provided, however, that this classification shall not extend to an area of ten acres or less, and shall not extend to the buildings that form the part of the production unit.

MR BECKETT: Mr Callum, a chap buys ten farms- it would have to be a corporation, and he puts tenants on these farms, would he qualify then? For non-assessment for school purposes?

MR MCCALLUM: Well his land would then be...that part of his land that wasn't used for the buildings and so on might well, unless you give such as has been suggested by some of the other Provinces, to define your farm unit-I think this is what you're getting at- to define your farm unit as being contiguous. For instance, I guess it's in the Province of Alberta-I'll just look at it for a moment (looks up reference)

MR BECKETT: But you couldn't single out the person who has four or five farms with a tenant on each farm and tax him as not a farmer.

MR MCCALLUM: I'm not suggesting...not for a moment suggesting that we could either- I'm not trying to make class legislation any more than you have in the Province today.

MR BECKETT: No, no; I'm not cross-examining you either....

MR MCCALLUM: Oh no, I realize that, and I welcome this because it gives us an opportunity really to get to grips with what we seek; and all I say in answer to your question is that it has been suggested in other Provinces that when you are giving these exemptions, it might be to those lands that are contiguous; as I understand the rate scale of the legislation that we have in Ontario today, I think it's clear that we don't attempt to define the person; that we are giving the benefit to land as apposed to a person; and that today, if land is used only for farming purposes by an owner...

MR SINGER: Whether it's a corporate owner or...

MR MCCALLUM: It doesn't make any difference...it is

given to the land. We feel it is quite proper to give the assistance to agriculture, if you will, in the use of land as opposed to attempt-

ing to differentiate in the classes of our society, and say: Well, you may be very well using it for agriculture, but you're much too wealthy; you've got a corporation and you own five farms and for you, you won't have the exemption for four farms or whatever. It strikes me, and this is a personal matter-I've not discussed it with the people I represent, that to do that is an attempt- it would be difficult I admit to separate one type of person from another type of person- if the theory is basic, as I see it, to our legislation to accord the assistance to the use of the land, and to agriculture, and there would be nothing wrong and there is nothing wrong with the way it is now worded.

MR SINGER:

No I can understand this matter of principle but I think surely the intent of this legislation and other legislation is to protect the individual farmer who makes his living from his own farm; and I don't think it was intended to protect people other than that; the fellow who buys in advance for a big corporation that is really engaged in development of land and that sort of thing.

MR BECKETT:

But how are you going to differentiate between them.

MR SINGER:

Well I don't know how but I think something- this method that Mr McCallum is suggesting, if it comes to pass, I think a farm must need some personal ties than just the use of the land. Just the use of the land leads to several difficulties.

MR BECKETT:

Well Mr McCallum knows that in Metropolitan area we have large holdings- hundreds and hundreds of acres, and they feel that they should come under this legislation which exempts... whereby an exemption is given to farmers.

MR COWLING:

Because they're farming now they're using that land for farm purposes and they come under that.

MR TAYLOR:

Their principal occupation is farming. What would the effect of that be on their farm assessments, that is the land which is being held for subdivision but is being farmed by tenants; Now would the price of that farm be taken into consideration in determining annual value under the Assessment Act? Would that have an effect? In other words, this is property which is now taken into consideration in determining the annual value of farm lands, and it wasn't before,

because it wasn't being farmed by a person whose principle occupation was farming.

MR BECKETT: Yes and a person can incorporate a company and set out in your charter that your occupation was a farmer, so you could come under that section.

MR COWLING: I think the whole difficulty, Mr Chairman, is that we all want to do something to help the farmer; we want to assist him, and the legislation is slanted in that direction, and I for one hope it continues to be for the real dirt farmer; where are you going to draw the line between the fellow who is going to continue to be a farmer, at least as far as he can see in the foreseeable future, and the individual who is farming but someday hopes to develop the land for say a subdivision; there's the difficulty- where do you draw the line, and who's to say that they should or they shouldn't; who's to say that this farm is going to be used for the next hundred years for farming, and who's to say that in a year and a half they might sell it to a subdivider. Where do you legislate that?

MR BECKETT: We'll ask Mr McCallum, can we do it by zoning?

MR MCCALLUM: Well you and I have some views on that point at the moment. (laughter) I don't think that you can do it by zoning, because I think that what Mr Cowling is getting at is the same thing that Mr Singer is getting at, and that is this- you have a real intent to assist what you term, Sir, I think is perfectly appropriate, the dirt farmer; and that your intention to assist just quits right there and when we get into these other classes, who can effect reductions in tax over their holdings by what's intended to help the dirt farmer, perhaps that's no intention of the Legislature. I acknowledge the difficulty that is implicit in it; I note, however, that with reference to the other statutes in Canada, they have attempted to deal in part with that problem; perhaps if you will just give me a moment, Mr Chairman, I would like to refer to a couple of Acts- I only have the notes of them here but this will give you some idea of how they've attempted to deal with it, and perhaps to get away from that. For instance, in Alberta, they have said that the following property is exempt from assessment

and tax:- farm buildings and other farm improvements on farm lands, and also live stock, farm implements and farm vehicles used and kept on a farm. That's what they is exempt. Then they say, farm buildings are:- a farmer or his tenant's residence situate on farm lands and the buildings and improvements necessary for the farming operation of farm lands; they define farm lands as lands being used for farming by a farmer or his tenant, and held as one parcel or contiguous parcels operated as a unit, (a) when over 20 acres or (b) if less and the person farming the unit derives his livelihood principally from the cultivation thereof; or any parcel reduced to less than 20 acres by expropriation. These are just notes that I made of the legislation, but you'll appreciate what they're getting at. As I read it, they're saying that when the unit exceeds 20 acres, there is enough being put to agricultural purposes so they don't inquire into what your other occupation is in this life, if it is honestly and only being used for agricultural purposes, you'll have certain exemptions. If, on the other hand, you are less than 20 acres, there are those who we want to assist agriculturally, but we'll have to see to it that those people who have a unit of less than 20 acres, that their principal occupation is farming. Obviously they were trying to get away from the fact that I could have 15 acres, 10 acres, and work in one place and my whole purpose is really no agricultural, what little farming I could do as a hobby or anything else, and I'm not really benefiting the Province or the agricultural situation unless I'm devoting my whole time to it. I would assume that was the thought behind it. In Alberta they say that a farmer or a farm tenant is a person who derives from the production of crops or live stock or both, or from fur production or from bees, an income sufficient to provide his livelihood. Now it is different from the Province of Ontario; it said, derives from the production...there again under...

MR SINGER: Derives from several occupations an income sufficient to...

MR MCCALLUM: Well you could derive a livelihood, Sir, from many other occupations, but you see, here is the whole intent of the legislation; it shows how it is directed towards assisting agriculture. They say that if you're going to get assistance, you must derive

from this production, sufficient to provide a livelihood; they don't say it is your only livelihood. You could have income coming in from stocks; your father or your grandmother could have died leaving you quite an income; it might in fact exceed the income that you could derive from the farm under difficult circumstances. You see what you had in the Province of Ontario before was one that prevented us doing that. If I had some bonds or if I made precious little from my farm this year because of the market situation, and yet my income from those bonds that I had inherited exceeded that, it was indeed difficult if not impossible to say that my principal occupation was farming, and I was going to lose the exemption right then and there.

MR SINGER: But you're a downtown lawyer who has 15 acres in Pickering; should he be given any particular benefit; or it is a doctor or some other fellow who, on the side, has a farm with a hired man...let us say.

MR TAYLOR: Hobby farm.

MR SINGER: Hobby farm.

MR MCCALLUM: No.

MR SINGER: This is what has happened in Ontario by taking out those words.

MR BECKETT: Well his principal occupation...it doesn't say principal source of income.

MR TAYLOR: But the present Section 35 now says if it is used for farm purposes, he gets the same break as the farmer; and a speculator who rents his farm will get the same break as the bona fide farmer under the present legislation. Is not that your interpretation, Mr McCallum?

MR SINGER: I think that....there are speculators as you well know in Metropolitan Toronto are able to put a crop of hay on a couple of hundred acres of land and take these benefits of this type of assessment and just sit back and wait a couple of years saving in taxes a very substantial amount of money.

MR BECKETT: But on the other hand, Mr Singer, there are a lot of people too who have bought a small acreage, and when times

are slack they take a job in Hamilton or something, and the purpose of the amendment is to help those people.

MR TAYLOR: I have a couple of questions for Mr McCallum-my first question is that these farm lands or at least these speculative lands that are temporarily farms, they are getting the same break as the dirt farmer, then those same lands are being taken into consideration in levying the assessment on the farmlands, will that have any effect, in other words will these speculative lands being held for speculation, have a tendency to increase the assessment put on the farm lands?

MR MCCALLUM: Well we dont know; I tell you very frankly that we are very concerned about it. At the moment some of us have hopes that we will have made the peace irrespective, but for the rest of the Province, I'm not yet fully aware of the implications of the recent amendment as it applies. It certainly never was the intention; but it may end up as the result. You will remember that the legislation provided that you were to be...it says:- "consideration shall be given to the sale value of such lands and buildings for farming purposes only; and no consideration shall be given to the sale value of lands and buildings to the extent to which this subsection does not apply." Now Mr Taylor, it's our view that the sales about which you speak are not those that could in any sense of the word be considered as a sale for farm purposes only; and it would be difficult for me to believe that Paul Hellyer is buying land in the top end of Scarborough or in Markham under a corporation could be said to be buying for farm purposes only, even though he started to sow a crop.

MR SINGER: But he wouldnt buy as Paul Hellyer; he would buy as XYZ Company Limited and the principal occupation would be farming, up to the time he was ready to divide.

MR MCCALLUM: Well that's all very well; but you see that used to apply, and that was the single purpose company that existed then, but it's not going to be so easy for them to make it work now because there still is the question of intention that's left in the legislation as it exists. As I'm now pointing out to you, it still matters whether that sale was for farming purposes only, and whether it could

be said that a single purpose company formed by a group of developers in Toronto, whose single object was farming, acquired that land for farming purposes only; and therefore it could constitute a sale in the market which would affect our valuation. In my submission, they could not, and it's for that reason I say to Mr Taylor that I don't think that those sales will be such as to affect the valuation of a bona fide farmer and his property for assessment purposes. You can see yourself the legislation speaks of "our being affected by sales for farming purposes only" and what you would have to do if you were acting for the other side is to, that is to say, the municipality would have to demonstrate that that sale to those persons, operating under the cloak of a single purpose corporation, was for purposes of farming only.

MR SINGLER: Where does it talk about intent...

MR MCCALLUM: That I think is the fair meaning and

the fair reason to come from the suggestion in the legislation that is in Section 35, subsection 3, where it says the following:—"that when you are ascertaining the sale value of farm lands used only for farm purposes, consideration shall be given to the sale value to such lands and buildings for farming purposes only." Mr Singer, what it really boils down to in fact is that when you're looking for assessment, and the assessor says: Look you farmers, assessment is going up. Now you see all those farms surrounding you; they've been sold to single purpose corporations for amounts far in excess of what we have seen as sales, and therefore, up goes your assessment. The farmers defense is to say:- Yes, Mr Assessor, but you shall give consideration on assessing my property to sales in lands in the area for farm purposes only. Don't, please, give consideration to sales to single purpose corporations that have been put together by a bunch of financiers to take advantage of what they hope is a loophole in the Act.

MR SINGER: It's an impressive argument, but I don't think that's what the legislation says.

MR MCCALLUM: That's what we hope it says and we're not doing any more than relying on the words of the Act as it exists at the moment; and if it is a frail defense, it is certainly our view

that the Legislature intends to hold the line right there, and they wont be long in patching it if somebody decides that they're going to run through it.

MR BECKETT: Do you propose, Mr McCallum, in your Brief, to re-write subsection 3 of 35?

MR MCCALLUM: So far as my present submission is concerned, Sir, it wouldnt be necessary. One of the reasons I emphasized in opening that this was a preliminary submission was, that as you know, we havent long been this Association; we have just got over a tougher fight, and we are turning our mind now to trying to get together a committee such as your own, so that we can make submissions with respect to the basic part of the farm and we were not able to this morning; we were just able to do the two things that seemed uppermost in our minds, one of which I've given you and one of which I still wish to give you.

MR SINGER: Mr McCallum, before you start your next point you say you've made peace; is this just an opinion you have or is there anything to prevent Mr Gray from going back and starting this all over again?

MR MCCALLUM: Well, Sir, the head of the Metropolitan Government has given it to me in writing that, for what it's worth, this will represent the formula for peace; and I dont know how those things stand-perhaps you....

MR SINGER: The Metropolitan Assessor through reads the Act pretty well too, and he is really independent, if he chooses, of the Metropolitan Government.

MR MCCALLUM: No one perhaps is more aware of that than we are (chit chat re Mr Gray)

MR BECKETT: Mr McCallum, time is getting on, perhaps we can now hear your next point.

MR MCCALLUM: Well Mr Chairman, our next point is one that stems from a long battle that we had in Metropolitan Toronto, which Mr Little has alluded to in his opening remarks; and is a matter of the onus that is cast. Let me introduce the point by saying that what we seek is an amendment to the Act so as to provide that when an assessment has been determined by a County Judge or the Ontario Munic-

ipal Board, and in the year or years following, a greater assessment is imposed by the assessor than that determined in appeal, the assessor shall have the responsibility on an appeal from this subsequent assessment of establishing to the satisfaction of the appellant tribunal that the circumstances have changed in such a way as to justify the increase now sought to be imposed. That's the nub of what we seek. May I explain it in this way. Every time we succeeded in getting a decision of the courts, we were met with the fact that the assessor could, in the following year under the law as it now exists, put the assessment right back up to where it came from, and we were left in the position of demonstrating he's wrong.

MR BECKETT:

Mr McCallum, wouldn't he have to do that to justify his assessment in the first instance or bring everybody down?

MR MCCALLUM:

Well in our particular case, we thought that when he had obtained the decision of whatever level of appellate tribunal we then got, that the assessor would have regard to that as a circumstance that was fixed, unless circumstances had changed; and he wouldn't do it; but you see he was able with impunity to do it, and can do it anywhere in the Province, to just raise it back up where it was, and leave you in the position of having to demonstrate all over again he was wrong. So the appellant bears the onus before each and every tribunal of demonstrating that the assessor is wrong; and that's a very heavy onus. Just put yourself in this position—in any municipality in Ontario, and much worse in the municipality of Metropolitan Toronto, how in the deuce can you possibly get the information to demonstrate that the assessor is wrong; so that you start with one of the most heavy burdens that's ever cast in an effort to question the assessment put on your property; anywhere in the Province you have to demonstrate that the assessor is wrong. Gentlemen, at the lower levels, indeed throughout, a great deal of common sense prevails. But the higher you go, the more they fight like lawyers. And the more they fight like lawyers, the more they succeed in convincing tribunals that the appellant has failed to meet the onus imposed him and they don't even put in any case. For in the course of our lengthy struggles, we were continually faced by this

proposition. We would come in on the field, put evidence in to demonstrate that the assessment placed on our test property was in effect not having regard to the principles set out in Section 35; and then have the solicitor for the municipality stand up and say: Your Honour, you see they have failed to discharge the onus cast on them by the Act by demonstrating clearly that the assessment was wrong, and we're not even going to put in any case, and we suggest you dismiss the Appeal.

MR BECKETT: Mr McCallum, the assessor takes his oath that he has carried out the provisions of the Assessment Act; that he shall assess at actual value.

MR MCCALLUM: I know, Sir, but you see, it's his opinion actually...

MR SINGER: It isn't actual value; Gray admits he has 1940 plus 15 for each ...

MR MCCALLUM: Well that's a matter that we're very much aware of and one that has troubled us, but it's so basic to the whole Act that certainly Mr Little and those for whom I speak have had great conflict and great trouble with that. And we recognized if we got to the Supreme Court of Canada, for instance, we haven't got a hope in any event. We're not at actual value and if I just may make that comment and then leave the point. It is fraught with such perils that an appellant today attacking with vigour the assessment placed on him, meets not only the onus I speak of that he must discharge or he doesn't get even that far; but even if he puts his head down and says, I'll get justice if I have to go to the highest courts in our country. When he gets there, they're going to say: Too bad, we can't do anything for you. This never was assessed at actual value. So because of these difficulties, we're very concerned that the Act be amended so as to at least cast on the assessor the obligation of saying why he changed it in 1953 if in 1952, I had my assessment fixed, we'll say, by the County Judge or by the Ontario Municipal Board at \$50 and acre-why he ran me to \$150 in the following year.

MR SINGER: But isn't the disease further back than that? Shouldn't there be some basis for either assessing at actual

value or have the value at one-third. Well if you have that, surely you have a base from which you could really step off.

MR MCCALLUM: Well unquestionably that's true, but because it exists as it does today, the need for some relief from the onus we carry is more acute; as you quite rightly say, if it were an assessment at an actual value and no fooling, then it would not be an onus that we couldn't fairly discharge. Because we could bring the evidence and that would be it. But Sir, when we exist as we do now, and without some assistance from the Legislature, we're completely- everyone in the Province of Ontario-at the mercy of the assessor. And I am fully conscious and don't seek to impugn any assessor of the oath that they take they take; it only reminds me that in the discharge of their duties, they are called upon to arrive at an opinion of value which is theirs; and there is nothing, therefore, under our legislation wrong with his saying: Well it may be that the County Judge said last year \$50 an acre, but he, I'm sure didn't have regard to this, that and the other thing, and notwithstanding what you say, it's going to be \$150 this year. On thin, we ought not to be called upon to get from his mind, and he won't get into the box, that evidence, don't you see. We carry the burden of demonstrating he's wrong. If he were asked for example, what circumstances are changed to justify him in saying that what you got from the court last year, you haven't got this year. But when he doesn't get in the box, and he doesn't tell us what and why it is and we can't find out from him why it is, it's an intolerable burden.

MR BLCKETT: Well now you take this situation; supposing you only had ten parcels of land and five appealed, and the five appellants got the reduction; what are you going to do with the others?

MR MCCALLUM: If they haven't appealed, as I conceive of the amendment, they would be left to meet the burden. They are, however, Sir, in this position and it's a good position, they are able to say that my neighbours are comparable, and I can demonstrate that youthe courts have fixed five and the assessor has left those five alone, and that's a very significant circumstance that ought to be taken into account by this tribunal in fixing my assessment. But it's the individ-

ual who goes it alone that's having the trouble and this is our circumstance; because each time we couldn't fight 50 some odd cases; we fought a test case; we went it alone. And every time we went it alone we met this burden.

MR SINGER: Well what your basic objection- and I agree with you-is the assessor shouldn't be able to put himself above the judge.

MR MCCALLUM: The courts have traditionally said that under our Assessment Act, a decision made this year is not res judicatum in the sense that it is for next year. It's not a decision that remains as between the parties final. The concept of our Assessment Act is that each year it's a new assessment made all over again. That's fine in our submission; so long as, if there has been a decision in my case last year or wherever I live in this Province, by let us say either a County Judge or the Ontario Municipal Board, that the assessor be required, if I am appealing again this year, to say why-in other words, to put the initial burden on him of at least prima facie indicating to the tribunal why this had to be increased. Now he wouldn't have to do very much, but he would have to at least give his reasons and we could meet his case.

MR BECKETT: But actual value fixed by a tribunal-who's to say that's any better than the assessor?

MR COWLING: You don't say that...as far as what has happened, that's OK; what he has done and what the tribunal may do is closed. But when it comes back to next year for the assessor as I understand it, and he's going to give it a boost without saying why, or even tell you in Municipal Board or the County Judge or anybody else; it seems reasonable that he should.

MR MCCALLUM: And, Sir, isn't this so very important, in answer to Mr Beckett, you see if we're going to litigate these matters we are going to say in direct answer that the County Judge and Ontario Municipal Board's opinion is entitled to more weight than the assessor for he is at the bottom of the hierarchy; the assessor says unless we appeal, and the Court of Revision can change him; the County Judge can change him and the Ontario Municipal Board can change him. Now that's

a good way to have the assessment subject to those appeals, and it's been for a long time; all we say is that when the highest tribunal or the second highest tribunal has gone to the trouble to decide the matter of value of my property for assessment purposes, it ought to be accorded more weight than just arbitrarily.. well away next year and assess at the same rate or higher and let you appeal all over again. And you see it lends itself to really a persecution; you could have a personality, and I'm not suggesting that any part of my experience was that, I am only saying you could have personalities. You could have an assessor who took a scummer at you and could keep you fighting every year or else he could run you out of business. And it lends itself to that.

MR COWLING: Is that done, Mr Chairman?

MR BECKETT: Not to my knowledge.

MR MORROW: It's a possibility; you know, Mr Chairman

that many assessors like to have their own way in the end, and after two or three times, they finally get it.

MR TAYLOR: Mr McCallum, if the reverse of that were true and the assessment was not increased the following year, is the onus of proof still on the assessor to establish that the assessment is proper; that the appellant feels the assessment is too high, but it could arrive that he increased the assessment and he missed appealing it for a couple of years; is the onus still on the assessor?

MR MCCALLUM: I don't think, no...I'm suggesting that the only time there be any onus cast on the assessor is when he has, in the succeeding year to a decision by one of the higher tribunals, increased my assessment. Then and only then ought he to be called upon to say or to give reasons for that increase. And then we're back where we are-I carry the onus.

MR SINGER: Would you go so far as to say that once a successful appeal and decision has been given in favour of the owner, the assessor then has the burden of adjusting all of these others in his same area.

MR MCCALLUM: Well, he has his own duties under the Act; you won't find it necessary to amend his duties; his oath of office

will compell him to have regard to these matters, and he will be required to deal ratably with each of us irrespective of how we look to him...

MR EVANS: He's supposed to do that anyway.

MR MCCALLUM: Yes he is and we dont require any amendment on any....

MR BECKETT: I would think that; he's taken his oath of office that he's assessed according to his ability at actual value.

MR MCCALLUM: Of course he has, but following along what you said, that is his oath doesnt mean much.

MR SINGER: His oath means nothing, if it says he is assessing at actual value; there isnt one of them that is assessing at actual value.

MR MCCALLUM: Well I agree with that statement, but to come to you, Mr Beckett, he assesses at actual value and in his opinion, but all we would be doing by the amendment that I suggest, is putting the assessor in the position, where at least in respect to my property, when I have gone to the trouble of getting a decision from a higher tribunal, he would be obliged to accord it some initial weight. This is not....

MR BECKETT: Excuse me, would he be carrying out the Act then?

MR MCCALLUM: Yes. Only in this sense he would be... you get me wrong; I'm not saying that he is required to put an assessment at what was fixed by the other tribunal- quite wrong, Sir. And that is when he would not be carrying out the Act. I'm saying, let him fix whatever assessment he wants in a succeeding year, carrying out the Act in its fullest; but if I then appeal in that subsequent year, let him say to the tribunal:- I felt constrained to raise this man's assessment from that fixed by the County Judge last year, for the following reasons. All I am saying is that he then has the burden of saying why he has raised it, that's all.

MR COWLING: That will be an interesting question for us to ask the assessors when they come, and see what they have to say.

MR SINGER: Mr Gray will have some reasons, you may

may be sure.

MR MCCALLUM: They will have more reasons than I have but that doesn't deter me; I have some confidence that our point is well founded and we've got some seven years of battling behind us. And we think our experience is one that can benefit every other tax payer in the Province, and that gives us the nerve, if you will, to submit to you that it's worthy of consideration and to be applied right across the piece. This isn't just a farm amendment we seek; this one, we think, has universal application for every appellant in the Province.

MR SINGER: A substantial application.

MR MCCALLUM: That is my second point, Mr Chairman, and with that I conclude my remarks....this morning.

MR BECKETT: You'll be coming back.

MR MCCALLUM: I hope so, Sir.

MR BECKETT: Would any Members of the Committee like to say something to Mr McCallum? Thank you, Mr McCallum, we hope to see you at an early date. Mr Hoover, you had something you wished to say to the Committee. Would you like to come up here, Sir.

MR HOOVER: Mr Chairman, thank you very much for this opportunity. Mr Chairman and Gentlemen, prior to engaging in any municipal work, I farmed ten years, and I entered municipal work in the early thirties, and subsequent to entering, after I had been on the Council scarcely two years, I received the appointment as Treasurer first and after that as Clerk, and I was Clerk for 21 years for the Township of Markham; and I made some observations during those years that caused a lot of questions to arise in my mind, and caused me to see what, in my opinion, needed some adjustment.

MR BECKETT: Now you're a Member of the Council.

MR HOOVER: Well yes, I'm a Member of the Council.

And I submitted to my friend, Mr Beckett, some of my observations last January, and would it be all right, Mr Chairman checked through that and made comments on some of the things? (yes) Very well. There are some things I noticed during the period I was Clerk. There was considerable discussion on the matter of assessment, and I noticed in the

early thirties that farms were proportionately assessed much higher than other properties in our municipality, the Township of Markham. And in support of this...I don't want to give to you men that I want to colour this- so I proved to my own satisfaction when I went into the Assessment Roll and made classifications of farm properties and non farm properties. And the argument was put up to me- oh we are in inflated values now, you can't cope with it. I based my observations in compiling the facts from the sale prices of farm properties in one class with residential and commercial in the other class; and here I put the assessed values that appeared on the Rolls in the year 1938, and here I used commercial properties and residential. And to my amazement, the farm property was assessed in the same way, double the other properties. And about that time, in the County of York appointed an independent clerk to bring in a report for equalization purposes. And the clerk used that method to equalize the assessment. Their report showed where they brought it up to what they called full value, that the farm property was assessed at 72% of sale price; the other properties at, I think it was 38% or 39%. And that has come right down through until the last year- not quite to the same difference in percentage that was filed with Mr Beckett, our report of the last equalization of the County of York. I notice that has continued on. Now in addition to that, I notice some other things. I noticed the Assessment Act provides that as far as gross revenues in telephone companies are concerned in Police Villages or areas set up as Police Villages, it provides that the telephone companies must inform the municipality of the gross amount of receipts in that particular area; and a certain percentage of that is taxable. But there's a limit on the tax; it may not exceed 5%. Now, Gentlemen, if that is placed there to give protection to that particular class of assessment, will farm assessment not also be fair to have some protection- some limited protection. That is my contention, and I have here the agricultural statistics for the Province of Ontario for the year 1960, and there's a page in here that gives a comparison of the revenue received from field crops from 1902 to 1960- all field crops and I'll leave this with you. In 1902, the

average per was \$15.84; in 1951 it's up to \$48.17; and since then it has dropped to 1960 of \$39.54. Now Gentlemen, the farming conditions and rural conditions- what do you think the farmer thinks when he hears men who havent had much experience in farming say:- The farmer is better off than he ever was; what's he grouching about?` Now also another thing I noticed in the Assessment Act, if the house is vacant beyond a period of three months, the owner can make an application for a revision ...to the Court of Revision for an abatement of taxes- but what about farm property when the weather conditions cause the loss of the entire crop? And we had a few in that position last year. Are they not entitled to some consideration? And my friend over here has made strong reference to the treatment and provisions for the golf club; of course in connection with the municipality, I'd be apt to ask what would happen if there is that much taxes against the property, and it is that unattractive that if you offer it for sale for taxes, nobody wants it. I experienced that in the thirties- I offered properties for sale for taxes and nobody wanted them. And I had found in the thirties that when once a tax rate reaches the point where the owner or tenant has no desire to retain his property because of taxation, who wants it? Of course some people tell me that isnt going to happen again; and what I see in the matter of speculative...it makes me wonder whether some of us old timers who come from families who have been from the early settlers sell the property to these people that...do they not know what they're doing or do we know what we're doing- of course they do. And as far as the value of land for agriculture purposes is concerned, I have come to the point where I seriously wonder whether land has any value for farm purposes today. Now if people realized that, and grew serious and said: All right, there's the land, take it; when the cost of production of crops is such that it's as much as you can get in rental value for it. That's what happens. This is the question in my mind. Now I do know that land doesnt seem to demand a rental above \$7. I know one farmer that less than two months ago said to some other men; he said in addition to my farm, I've been renting some land for which I've been paying \$8 an acre, and I'm not going to do it any

longer; I'm losing money on it. Now when there is a tax on land- take it at \$115 an acre- we know whom I refer to when I say it seems to be his idea of land values for farming purposes at a 65 mill rate, he's paying a rental value in taxes for that land; is that the basic principle of taxation as far as the Assessment Act is concerned? Is that all it's worth in rent? Now it seems to me we are in a serious position as far as rural farming purposes are concerned; and I heartily agree with what my predecessor had to say in his submission, and I believe that some consideration must be given to farm assessment so we may remain solvent. Now Mr Chairman, would it be transgressing if I gave the statements of a couple of farmers in connection with this?

MR BECKETT: Not at all.

MR HOOVER: This idea of levying a capital tax,

I'm afraid of; it's unfair to single out farmers for that purpose and not other properties. I know one farmer who is an average farmer who just less than two years ago made the statement to me. He said:- I told my wife the other day that all the gains that we had made through farming operations over the years, represented the appreciation of our land value. All he had made as far as farming is concerned is a living. And I do know that in our neighbourhood, a good many farmers are trying to subsidize by doing something else; and I hope, Gentlemen, you will give this a fair consideration. I don't know that I have anything more to add, any more than to say, do you think it is fair to wait until a farmer sells, and then soak him. What about his pension? That's his pension, his life savings, his back log-but take it away from him; don't let his family get it- take it away from him. And I'm afraid in our neighbourhood, that lands are being prematurely sold for subdivision purposes, and I don't entertain high hopes that we're going to stay on long myself; but I hope I'm wrong in my ideas. Thank you, Mr Chairman and Gentlemen.

MR BECKETT: Just one question, do you think the farmer is as well off today as he was a few years ago?

MR HOOVER: No, relatively speaking, I claim he's not as well off now as he was in 1902.

MR BECKETT: Any questions the Members would like to ask Mr Hoover? He has had a long experience in municipal affairs.

MR MORROW: I would like to ask him his opinion on putting the assessor on a county-wide basis; Mr Chairman, maybe he has an opinion on that?

MR BECKETT: I thought we'd get that from Mr McCallum too- Section 93 (a).

MR HOOVER: If the county assessor proceeds in the same manner as the assessor has done in the past, there's going to be just the same dissatisfaction.

MR MORROW: He uses the same yardstick?

MR HOOVER: I'm afraid so. Gentlemen, look here, if we use the same basis as the matter of fixed assessment...to be fair I cant agree with it, I agree with what Mr McCallum has presented because I want to be fair about it...but when it's less than \$40 an acre returns 5%, that's less than \$2 an acre.

MR MORROW: Dont you think, Mr Hoover, that the county could pay a better salary and therefore get a better qualified assessor, and in that respect, do a much better job?

MR HOOVER: Yes, but from my observation, whenever you begin to do anything countywise, it costs far more than the way it is.

MR MORROW: If it's better done, why it doesnt matter if it costs a little bit more, perhaps.

MR HOOVER: Wouldnt your books be better done if you hired a chartered accountant (right) Do you think it's worth it?

MR MORROW: A lot of farmers use them.

MR HOOVER: Good for them. They must be in business.

MR MORROW: They probably save a lot in income tax when they get a good man to do their books.

MR HOOVER: I know one farmer who did that and saved a lot but he happened to be the only one and he told me he saved \$700 by doing that but he has other income and he can keep the farm.

MR BECKETT: Well Mr Hoover, do you agree that the principle of a county assessor is better.

MR HOOVER: I say it all depends on the man; and it also depends on the action he takes.

MR BECKETT: But all things being equal, and we got the best man to do the assessing, would it be fair to do it on a county basis?

MR HOOVER: I might discuss it but I have my doubts.

MR TAYLOR: What do you think the top tax rate should be? What could a farm bear, \$6 per acre?

MR HOOVER: No, I dont; I think that \$2 an acre under present conditions is all it can stand, and I think really that is too high, but I think that is the very limit.

MR BECKETT: In Markham Township, what would be the assessment on that land?

MR HOOVER: Per acre, our top land, about \$45 to \$50 per acre.

MR BECKETT: And what are you taxed per acre?

MR HOOVER: Per acre? Our average mill rate will be around 60 mills; a hundred acres would be at \$45, \$4,500 and the buildings on top of that.

MR BECKETT: Would it be around \$2 an acre?

MR HOOVER: Oh, it's more than that, it works out to \$5 and \$6 in Markham and in a few places it's higher.

Mr Taylor: \$2.70 an acre at 60 mills plus your buildings on top of that.

MR HOOVER: And I'm quoting a minimum figure.

MR BECKETT: Well thanks very much, Mr Hoover. Are there any other members of your delegation that would like to speak? Mr Harrington.

MR HARRINGTON: Well, Sir, all I want to say is that I appreciate the gentlemanly approach you've taken and the time you've given to us; I have nothing to add except that we appreciate very much appearing here and I assume that we are coming back at some other date.

MR BECKETT: Yes, we'd like you all to come back and Mr McCallum will have his Brief with him, and we will notify you when we hear the Brief from the Federation.

MR HARRINGTON: We appreciate the invitation, thank you, Sir.

LEGISLATIVE ASSEMBLY OF ONTARIO
THE TWENTY-SECOND MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
Parliament Buildings
Queen's Park
Toronto, Ontario

WEDNESDAY,
June 20th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
Arthur Evans
George T. Gordon
Ron K. McNeil
Donald H. Morrow
Vernon M. Singer
Thomas D. Thomas

APPEARANCE:

Mr. R. Richardson
Mr. R.J. Desjardins
Mr. H.R. Burton
Mr. R. Anderson

PRESENTATION:

BRIEF - THE ONTARIO TRAFFIC CONFERENCE

THE ONTARIO TRAFFIC CONFERENCEHOLLIS E BECKETT, CHAIRMAN

MR BECKETT: Mr, Richardson, would you like to introduce the members of your delegation to the Committee.

MR RICHARDSON: Yes, thank you, Mr Chairman. My name is Richardson, President of the Ontario Traffic Conference from Oshawa

MR THOMAS: From Oshawa..I wanted to get that in, Mr Chairman.

MR RICHARDSON: And Mr Anderson from Scarboro, who is the second Vice-President of the Conference; Mr Burton, formerly the Traffic Engineer from Toronto, and Past President of the Conference; and Mr. Desjardins, of Metro Planning Board who is our Secretary-Treasurer.

MR BECKETT: Now you may proceed anyway you wish, Mr Richardson to read your Brief or to talk about it- whichever way you wish.

MR RICHARDSON: Thank you. I thought the Members of the Committee might not be too familiar with the Ontario Traffic Conference and possibly I should take a moment to explain who we are and what we are attempting to do. The Conference was established in 1949 with the particular aim of improving traffic conditions and traffic safety in the municipalities. It acts as a non-profit organization and it is covered under a Provincial charter. The present membership is about 350; and membership is made up of elected representatives of municipalities and counties and police commissions, municipal organizations, such as parking authorities, planning boards etc. We have elected representatives and we have appointed officials from the police departments and engineering departments to make up the membership. The way the Conference functions- there is a Board of Directors- 15 men- pardon me we certainly do have a lady member from the Township of York. I wont outline the names of the members of the Board of Directors, but they are fairly representative of the entire Province. The work is done for the Conference by various technical committees who function through the year studying particular problems which have been referred to them by the

Board; usually these problems have been raised by the membership or on the floor of our Annual Convention. These technical committees then submit reports which are presented to the Annual Convention which is held every spring. From these Convention Reports, we have a number of resolutions- normally these deal with the Highway Traffic Act- each year we have been fortunate to sit down with the Minister of Transport and discuss with him a Brief outlining various recommendations for changes in the Highway Traffic Act. In this particular instance, there are certain items which, we feel, apply to municipal problems and to the Municipal Act, and consequently, we presented a Brief to this Committee. I think that pretty well outlines the make-up of the Conference and I would like now to get into the Brief itself.

MR BECKETT: About how many members would you have?

MR RICHARDSON: About 350 members at the present time.

I believe the last figure I heard was 338; now whether that's increased any or not in the six weeks since the Convention, I don't know.

MR BECKETT: But of course they represent all parts of the Province, don't they?

MR RICHARDSON: That's correct- some of our members are elected people; each municipality is permitted to have four voting members, two of them are elected people and the other two must be appointed officials having to do with traffic; usually the appointment is one from the Engineering Department and one from the Police Department.

MR BECKETT: Are most of the urban centres represented?

MR RICHARDSON: Yes, I would say probably all of the urban centres- possibly Mr Desjardins might comment on that.

MR DESJARDINS: Mr Chairman, there are 66 towns and cities who are actual members.

MR BECKETT: That is pretty representative of all them.

MR DESJARDINS: Yes it is; I think that all the areas of over 30,000 population are all in.

MR BECKETT: You may proceed, Mr Richardson.

MR RICHARDSON: Thank you. I think we can dispense with the letter of introduction, and proceed with Item 1 -(reads) "Whereas

private driveways..... privately owned property." Gentlemen, in connection with this resolution, the Ontario Traffic Conference about three or four years ago adopted a policy for the control of private driveways. Now my private driveways, we refer not to residential driveways, but to driveways from commercial property, such as service stations, shopping plazas, this type of business driveway that generates a considerable volume of traffic. The policy adopted by the Conference outlined the desirable locations for driveways to such establishments, and stated that the driveway must not be so many feet from the intersection; the driveway must not be any wider than a certain width at the curb and at the sidewalk. This was a matter of protection for the pedestrian using the sidewalk. The policy also designated the number of driveways that would be permitted for every so many feet of frontage- total frontage of the property. The reason we felt a need for such a policy was that these shopping plazas and service stations were coming in with requests for...they would take their whole frontage for a driveway if they could get away with it. This seemed to be their general attitude, and so there was a need for some control of this type of business. I believe the Committee which drew up the policy had representatives from the service station industry on the Committee, and they were reasonably satisfied with the policy as drawn up. Now the problem as we see it now is that if a commercial business, shall we say a service station.. we might present this as a policy of the municipality that he can only have so many driveways and in such and such a location. This then he can accept or if he chooses to reject it, the municipality has no means to enforce this policy. Now I believe some municipalities have adopted a bylaw to this effect; but I don't think the by-law has any legal basis any sure ground; in other words, if someone was to go their own way and put in a driveway wherever they felt like it, I don't think the municipality, if they chose to prosecute such an individual for contravening I don't believe they would have any grounds to back it up.

MR EVANS:

Mr Chairman, this is not on driveways on Provincial Highways which might go through the municipality.

MR RICHARDSON:

These are driveways having access to

all roadways in the municipality...

MR EVANS: Any public street? Including highways?

MR RICHARDSON: Any public street...a highway through a municipality is just another street in the street system. This is really a matter of planning, and Mr Desjardins was on this Committee—he drew up our driveway control policy. I would like to ask Mr Desjardins to comment, if he would, on this particular item.

MR DESJARDINS: Mr Chairman and Members, just to fill in the background that resulted in this policy—it's not only local, it's international, I'd say; the same policy in almost identical form is being circulated throughout the whole of the United States and Mexico, and while it's not adopted in the whole of the United States; we expect and hope it will be adopted by September in the United States. So it's pretty well similar in the whole of North America. And I'm going to distribute this pamphlet—it sets out why we have drawn this up and this type of thing. (distributes leaflets) The local people...for Ontario we brought in the Petroleum Association because we didn't want to adopt regulations or recommend regulations that the commercial people felt that they couldn't; so they were part of the development of the regulations. Why we made them was simply to reduce the conflict and to guide the traffic control of driveways. I think the highways can not come up with this because I think the highways have legislative power... but there is a question about the driveway. Frankly we don't think the municipalities have the powers; they can use blackmail, bluster and persuasion, and it works reasonably well, but...

MR BECKETT: Without any authority?

MR DESJARDINS: Yes, without any authority. It is pretty well salesmanship at the moment. But a lot of municipalities are passing by-laws, based on this Guide, but they have no real validity, and so we finally decided, because this problem is increasing, to make representations to the Select Committee that the authority be granted in the Municipality Act. We have tried in Metropolitan Toronto to enact the by-law; but the Metropolitan solicitor said: No, we cannot even consider even drawing up the by-law, because there is no way of enforcing.

MR BECKETT: Nothing under the Planning Act?

MR DESJARDINES: No, nothing under the Planning Act.

The Planning Act only gives us authority to adequate width control of driveways, so I think with that background, it simply resolves itself into the fact there is no authority anywhere for the regulation of the numbers, location and size of driveways. I don't think there is any thought here of prohibiting; it is simply designing it so it is more effective for the private person and for traffic control. And I think we can get together very easily; it is almost being enforced now in this form and by making it legal it won't change very much, but it will be legal.

MR BECKETT: The municipalities have control over the boulevards- there is something about having control of the people using the boulevards.

MR DESJARDINES: You can build a curb 8 inches high, why, unless you cut that curb which is on the highway, you can't jump the curb- there's that indirect control.

MR TAYLOR: There's this Section 469 of the Municipal Act; Mr Falls, the Engineer of York Township made certain representations there, and the proposal then was to extend that to include a retaining wall and ramps and approach driveways-just close enough, I think, to include the type of thing that is being requested today.

MR BECKETT: What Section of the Municipal Act deals with boulevards? Section 469 isn't it? Isn't that Section wide enough?

MR TAYLOR: Not as it exists now, no.

MR MORROW: After their experience with the outdoor theatres, the Department of Highways finally made it something about setting it back from the highways now...I think it's 600 feet or something of that nature, in off the highway, I mean, not directly on it.

MR DESJARDINES: They have simply drawn up a set of almost identical regulations which they have legislative authority to enforce it; but if you are not a highway official, you can't do this.

MR THOMAS: They'd have to agree with that before they'd get the permit, wouldn't they?

MR DESJARDINES: The Highway Department has the authority

under the Minister to make regulations, and these are enforceable.

MR BECKETT: Well what would you do, amend Section

469?

MR DESJARDINS: Yes, Sir, amend Section 469 to give to

Council the authority to regulate the size, number and locations of the driveways; it will actually then permit Council to pass a by-law and this pamphlet would probably be a guide. At the Conference we recommended that we try to keep this uniform throughout the Province, so that driveways don't appear...in other words, standard driveways. That is the difficulty..if you never know where an automobile is going to come out on the road, why this is a traffic hazard. We would like to standardize the types of design, particularly of plazas and....

MR MORROW: And not have a circular driveway for

a home on a 50 foot lot;

MR RICHARDSON: That's right.

MR TAYLOR: Would you require a permit then for a

driveway?

MR DESJARDINE: Well as we do it now, in the submission

everyone submits a plan which locates the building and on that plot plan is the location of the property line, location for curbs and it shows the size of the cuts and...when a service station comes in now, it is almost identical to this survey. They show the width of the driveway and it is simply stamped approved. This is done now with no legal authority.

MR RICHARDSON: I think this is pretty well standard pro-

cedure in most municipalities. This is handled usually through as a side line of your building plan; in the Department when they come in for a building permit, and we're doing the same thing, where we are requiring this in a plot plan and we mark it as approved.

MR DESJARDINS: But if they go out and build it some

other way that is not satisfactory, we can't stop them.

MR THOMAS: What about a house already built and then

later on they decide to build a garage and put in a driveway?

MR RICHARDSON: We are not concerned with residential

properties here; we are concerned with commercial and industrial devel-

opments where there is a high generation of traffic. Residential driveways are not a particular problem.

MR DESJARDINS: We dont put that as a restriction; we simply say that each property that has 20 ft or 30 ft driveway, it should be five feet from the other one so that they're not joining; if they're going to be joint, then make them joint- there is really no restriction on this-it's a matter of location. And if a shopping centre comes in with 700 feet, there are desirable places for putting traffic through; and this can be desirable not only from a traffic point of view but from an owner's point of view. It's not a difficult problem and there is considerable leeway. The kind of by-law that would be adopted, of course, would be up to Council, the matter of the size of it, the number and its location. We already have authority in the Highway Traffic Act and Highway Usage Act to prohibit access at all. Sometimes you get 50 foot driveways and they come out in all directions. We'd rather have a 20 foot in and a 20 foot out, so we can know exactly where it's going to go and where it's going to come out; so that when you're driving or walking, you're not expecting it at any other place.

MR RICHARDSON: You will find that we get the odd request for someone wanting a driveway that will come out right in the corner of intersection. You cant permit this because you've got pedestrians wanting to cross at this point and it is certainly not a desirable place for traffic to enter a stream of traffic. So for this sort of thing, you need to be able to proscribe this type of driveway and restrict it.

MR DESJARDINS: When they come out the corner, they dont know which light to go on, and consequently they take either light this is a real traffic hazard and consequently we want to prohibit this type of thing.

MR BURTON: I would like to say a word here, Sir. We have found that all these conditions can exist, but one thing that hasnt been mentioned- there is nothing to prevent a company from putting a driveway or a ramp to these service stations- there is nothing from preventing them from ramping all the way around except the City Engineer, and I suppose this is true in the municipalities, puts a charge on the cost of building ramps of so much a foot; and they're supposed to

get approval of all this; what we found, we had a number of incidences where these things had been ramped right around and we had no place to put our street light pole or our Stop Sign pole or our signal pole. One instance I remember we had signals 60 feet down the street past the intersection; and we had a Stop Sign up in North Toronto that was 150 feet back from the intersection; which is entirely illegal. But we couldn't possibly get that in without going into this fellow's ramp and interfering with his access. I mean these are some of the things; and there are a lot of them, and there is, at the present time, no legal authority to prohibit any of these. When you come to things like shopping centres, if the access and egress is not very carefully controlled, it can completely foul up the traffic on the abutting street, simply because somebody's trying to come out and make a left turn over at this side of the driveway, and somebody else is trying to come in here; and the first thing you know you can get a lock; in other words the vehicles get interlocked and nobody can move them and the first thing you know the street is just like that (demonstrates) Now when you get a heavy generation of traffic like that, then it becomes important that you separate your ingress from your egress, so that these kinds of things can't happen. People who are going in can wheel on in and keep on going; and people who are going out can stand until they have a clear way, and then get going, and nothing happens on the street pretty much. These are some of the things that we can and have run into in my own personal experience and I feel there is a need for some legislation to cover this.

MR BECKETT: I suppose the municipalities have been able to control it to a certain extent when they issue the building permits to service stations and so on.

MR BILTON: We can only do what George said, do it by persuasion not to say, blackmail, bluster and so on. You find that most people prefer to go along with it. The service station people, the oil companies, Esso and B A , Texaco- all their representatives and all of these- their representatives were in my office from time to time for months and months and months to come to this policy; and we finally hammered out a compromise proposal and they agreed to try it,

and I think that generally speaking it's very satisfactory. I know the oil companies now are prepared to go along 100% with this on service stations. They recommended that service stations adopt the things that were laid down, this document that Mr Desjardins has given you. And if they dont want to go along, there's not very much you can do.

MR THOMAS: Perhaps if they knew they could get away with it, they may not be so cooperative.

MR RICHARDSON: I must admit we do not have too much difficulty with anyone from the petroleum industry because they're aware of the policy and pretty well design their service stations accordingly; but the problem is mainly with the smaller independent business who comes right out and refuses to comply and you have nothing to...sort of ..well you say all right go ahead, there's nothing I can do to stop you, but it puts you in a pretty frustrating sort of position.

MR BURTON: I did have one experience with a supermarket who insisted in putting an access in a most objectionable place and there was nothing I could do about it; it was on Bayview Avenue; well now the island goes past there now and we have managed in that way to stop the left turn part of it; by putting an island right up through so they couldnt make a left turn, and that ended that; as far as stopping then from putting that entrance in that particular spot, there was nothing we could do about it. And yet we told them that this wouldnt work that it would create a traffic problem; it was an extremely congested location. And it continued until we put this island in.

MR EVANS: I was just wondering, Mr Chairman, the Department must have some code to go by; what code do they use in cases of driveways like this?

MR DESJARDINS: They have a very similar guide issued by the Department of Highways- almost identical to this. They also are our committee members on this policy. This is a matter which I think would be reviewed almost yearly, I mean the Act would simply say, the size, locations and the number of driveways; the administration would be a flexible thing; if anyone found that a 30 foot driveway was too narrow or something, why you amend it and maybe a 35 foot would be better. You would not pass a law that says that the sizes have to be handed out tech-

nically- you have to leave that to the administration; the basic law we're after is to permit us to regulate.

MR RICHARDSON: If that is all the discussion on that, I wish to proceed with the next item, Resolution on Emergency Traffic Regulations. (reads) WHEREAS any municipal roadwork..... of 60 days"

MR BECKETT: Well Mr Richardson, there is a provision in the Municipal Act for temporary closing of roadways for emergency purposes and for making repairs- is that Section 377? (yes) Is that not wide enough?

MR RICHARDSON: No, this permits us to close the road, and it says we either have to erect a suitable barricade at the end of the construction section and lights and erect detour signs; but I don't believe this goes far enough. Because in establishing the detour route, especially in cases of a really main street, then it becomes necessary to put in other signs to control traffic, in other words, you may have a multi-lane road on which you wish to do some repair work or some new construction, yet your detours may be into a one or a two lane road, therefore you end up by introducing a one way street system on a temporary basis. Also you may be using a route that is normally a residential area; it is not signed with Stop Signs. You will find you will have to erect Stop Signs to provide a through route for the detour. And if you carry it a little bit further, you may have an intersection - your detour may cross a major street in the opposite direction, where on the street under construction, you may have traffic signals; well then you find it necessary to erect a traffic signal on your detour route. Now this is the type of thing we're referring to, and under the Highway Traffic Act, all such signs- Stop signs, traffic signals, one way street designations, all these have to be by-lawed and by-lawed through by the Minister of Transport before such signs can be erected. Now frequently there is not enough time to go through this routine of passing by-laws and getting approvals; this may be something that has to be done over night.

MR SINGER: The police do it.

MR RICHARDSON: Well this is our point. These signs

are erected by some municipal official, some cases it is the Engineering Department and in some cases it is the Police Department- it just depends on who is in charge of erecting signs in the particular municipality- so this is the point. The man has no authority to erect such signs. Now what happens, say there is an accident as a result of Stop Signs or traffic signals being installed without authority, where does this place the man who gave the order to have the signs erected? And where does this place the municipality? This is our point.

MR SINGER:

Are you not worried about the question of delegation of power? Do you really want to delegate the power to an official rather than to the Council?

MR RICHARDSON:

Mr Burton is quite strong on this; as a matter of fact I believe he is the man who investigated this particular item.

MR BURTON:

Mr Cowling, attended the Council Meeting I think it's about ten or twelve years ago now; he might remember me arguing this point; it goes right back to the war; it was a rather unfortunate circumstance-they were putting the water main on Avenue Rd and possibly we should have foreseen this but we didnt. We got 24 hours notice that they were going to close down the intersection of Avenue Road and Eglinton to all traffic; now I expect most of you people here know what that area is like, one of the heaviest in traffic in all of Canada, so Inspector Page who was then in charge of Traffic and the police and myself Mr Irwin of the TTC we went out there and we organized the one way street system and put up Stop signs and No Parking signs on about 24 hours notice; now you dont have time to advertise or talk to the Council or talk to the Mayor and see if he'll back me up- you just have to throw in and do these things. Well it just happened that on one of these One-Way Streets that we had put in, about two days afterwards, a youngster ran out and some chap that was going the wrong way on one of the One-Way Streets knocked down the youngster and the youngster had a permanent brain injury and will be non compis mentis for the rest of his days. My office was full of lawyers for some time after that and I was pretty uneasy about that situation. Now if we

some legal authority where we could take the facts... now in passing I may say that Ontario is probably about the most resistant to delegation of authority on matters like this of any jurisdiction in North America; it is recommended in practically all the uniform codes and the recommended period there is for 90 days. I argued on this resolution that we ask for 90 days but they thought the 30 days would probably meet the situation.

MR COWLING: What has been the objection, Bob?

MR BURTON: Just the deleation of authority; if you turn it over to an official, not an elected representative; not an elected body, but turn it over to an official the right to put into effect a regulation under which something might be brought to the courts and charged- this is the basis. It isnt really the delegation of authority because there's all sorts of delegation of authority in the city and engineers who do things- work- public health officers and everything else- these would be equally-be....result in violations of laws and a lot of people would be brought into court. When it comes to traffic on the highways, for some reason or other there seems to be a chronic objection to delegating that authority. I dont think it's justified myself except for this. You might restrict it to cities that have proper traffic authority or something of this nature; or in the smaller municipalities, there could be problems in traffic from delegation; if there are not competent people who know what they're doing when it comes to handling traffic. This might be the objection.

MR COWLING: Would you say over 100,000- something like that?

MR BURTON: Well I would certainly cut it down- away down.

MR SINGER: Well in any municipality in recent years you've seen the Mayor and Chief of Police- if they dont pull; if you get a Police Chief who doesnt get along with the Mayor in a small town there could be chaos over something like this.

MR BURTON: It creates a problem.

MR SINGER: If you could specify...for instance

say..what's the Committee on Nniformity of Legislation- the Provinces have all sent a delegate to a Canadian wide body...

MR BURTON: Yes, well they sat down and drafted a uniform traffic code of by-laws, I guess it's about ten years ago now, and it's been kicked around ever since; they're still at it;and one of the things they had in there and this came from the Maritimes was a proposal that there be a Traffic Authority-talk about delegation of authority; and this proposal came from these legal people- that some Traffic Authority be appointed with authority to make the regulations and puts them into effect without Council at all. Now this was too extreme- I couldnt accept this one myself- I thought it was too much responsibility. I would have been charged with the responsibility and I didnt think I wanted altogether to carry that; and also this is an usurption of power from the Council. The Council certainly should have something to say; they are the elected people and they should have the opportunity of something to say.

MR COWLING: This would only be in cases of emergency.

MR BURTON: This would only be in emergency, but in the operations that have been going on around Metro Toronto here for the last ten years, with the improvements and everything else, this is a daily performance...

MR SINGER: A perpetual emergency.

MR BURTON: Yes, when you come to building the Gardiner Expressway through the Sunnyside area, we were arranging detours and Stop signs almost every day of the week; we had a difficult time just keeping up with this as the work progressed; and there is no possible way to keep up with these with by-laws or anything like that.

MR COWLING: And of course, Bob, the Council asks for your recommendation on it anyway, as the Traffic Engineer; all these things that you want action taken on...

MR BURTON: If it's possible...but there's just too many of them.

MR SINGER: But even on the adopted ones, Council has been known to disagree. (laughter)

MR BURTON: We sit down for a month and we plan out

months ahead and we put through by-laws covering the whole flock of regulations which we say will go into effect when necessary and have the by-law passed; this is another side of the thing when we have a planned operation of that nature. But this doesn't apply when somebody goes out and digs a hole in the street or you get a water main blow up maybe on the street and the street is tied up for a week or ten days; you can't possibly foresee these things. Mr Chairman and Gentlemen, there is a very definite need here, speaking from my own background of experience.

MR RICHARDSON: I would suggest even further that on say planning a construction project which is going to be a relatively short term- we are mentioning 30 days here; but it seems to me to be going through a lot of routine, tying up City Council, passing by-laws changing by-laws to put up a couple of Stop signs in order to put into effect a detour for 30 days. This is also going to the Department of Transport each time-it seems just a little too heavy with paper work; and I suggest this is what we have in mind as well as absolute emergency situations where a watermain breaks and you have to close off the road-that's an emergency. But I would suggest short term construction jobs- 30 days for example would also fall under this category.

MR COWLING: Well I think as long as you advise Council, subsequently, of what action you've taken so they are familiar with what had been done, I can't see anything against this; because as you said, Bob, there just isn't time to call a meeting of the Council; this action must be taken now.

MR EVANS: But you wouldn't limit it to populations.

MR COWLING: No. The reason I said that before, was because larger centres have qualified Traffic Engineers and would not permit problems to arise.

MR EVANS: I think all municipalities all have emergency problems as is stated here; they all have emergency problems of water mains breaking- something like that- even the very small ones, and they have to barricade the road off and make detours. But they have no real authority to do it?

MR RICHARDSON: That's right.

MR BECKETT: In any case each municipality has to be responsible for actions on all these matters. That's the reason for the by-law being passed.

MR RICHARDSON: I think Mr Anderson has had quite a bit of experience in Scarboro with construction and detours.

MR ANDERSON: I wont take the Committee's time too long but this has been a matter of serious concern to the Conference; since my first association with them, and I think it goes back ten years; I would suggest that this matter was submitted to the Ontario Mayors and Reeves Convention- has been submitted to them at, I think, three previous conventions; and they apparently raised the same question- the deleation of authnority; however the only objection they raised was the extension of time; we asked for 90 days and the Ontario Mayors and Reeves- I think you'll find in your own initial records that they sent a resolution recommended 30 days, which is what we are now asking. The inference there is that after a period of 30 days, if the emergency situation was not corrected, this would give the Engineer or the Commissioner of Works time to go back to Council and say, this situation which we had hoped to clear in 30 days, continues to exist; however I have assurances it will be over in two weeks- I ask your permission to extend it. And the Mayors and Reeves apparently supported us. That's the only thing I have to say.

MR BURTON: One other point, Mr Chairman, the City of Toronto did get a Private Bill through which we were asking for- at least I thought we were asking for; what we got was the right to pass a by-law for emergency purposes for 30 days without having to be approved by the Department of Highways; it was being able to dispense with the approval and this was practically useless from our point of view.

MR COWLING: You still have to deal with the Council?

MR BURTON: Well...but you dont have a Council.

City Council wont sit now until September and in any event you certainly cant call a special meeting of Council to pass a by-law to put a Stop sign on a street;but in the meantime this may be required and somebody will do it. Someone said- get in touch with the Police Department; we

always work very closely with them in these things. Now you will ask me to put up a sign and it is a police action, I will do it; now if it came to court, well they say it was a necessary police action; this is what I told the lawyers when they came in over that thing up at Avenue Road and Eglinton- this is a police action to cope with an emergency. Apparently that satisfied them because they never came back; and I often wondered who ordered it.

MR BECKETT: Well we'll take that into consideration.

MR RICHARDSON: We'll proceed then to the last item,

Traffic Control-Shopping Plazas. (reads) "Whereas shopping plazas and parking.....control purposes." I was hoping that we could have some important police people here to discuss this item, but unfortunately they were unable to attend. Let's say this is a hot issue.

MR SINGER: Certainly there are a number of questions that occur very quickly to me...

MR RICHARDSON: Yes, we're not convinced, I don't think, as a Conference that maybe this is just the thing to do; because there are so many implications to it, and just where it ends...you enter private property in shopping plazas to control traffic, then where do you go from there? What designates one private property different from another private property? At the present time, the police have authority only to prosecute anything under the criminal code; I think a lot of people are taking advantage of this; the police are in a bit of an awkward position. There are certain groups who know that traffic regulations cannot be enforced in a parking plaza; and some of these larger shopping centres-they're really like a small subdivision almost-they're made up of roads and aisles and parking spaces; and this is a problem. I wouldn't say that we strongly recommend that this resolution be accepted by the Committee; I think it probably needs a lot of study. But I think it is important to bring the matter to the Committee-I'm not sure whether other groups have brought it up. This is brought up constantly on the floor of our Convention, usually by the elected people who are concerned with what can be done in shopping plazas.

MR BECKETT: We've had other people concerned with

shopping plazas-aside from the administrative problems. Yes, Mr Anderson?

MR ANDERSON:

Mr Chairman, could I just speak a moment?

(yes) I think I first of all must apologize that I speak in the absence of Deputy-Chief Kerr; it was just impossible for him to be here today; he's First Vice-President of this organization, and he would have spoken on the police end of this. However we have to get along as best we can. Maybe with this No. 3 submission, we should merely state that it appears on this Brief chiefly because of a vote taken at one of our Conventions which the Board of Directors could not reverse, and therefore it appears here today. As Mr Richardson, our President, has explained that mainly the elected representatives of our Conference obviously are being plagued by their constituents who are raising this problem what to do with teenagers, and they are chiefly teenagers who are causing disturbances on plazas with careless driving and all sorts of things. The Board itself talked about this with the police and the legal people, and we could come to no satisfactory conclusion on this matter. However, we thought we could just as a Board explain that it is a serious problem- I know particularly in my own municipality where there are so many large plazas of 2000 cars, and I suggest to Mr Singer that the same applies in North York where some of the problems arise. This is a case where restaurants and bowling in the plazas stay open late at night and these become the hang-outs or a gathering place for teenagers with their cars. Now the police, under the existing Act, can only apply the Criminal Code; and I suggest there are only three Sections of the Criminal Code that apply, and I'm looking at an order of the Metropolitan Police causing a disturbance, Section 160 of the Criminal Code; causing a disturbance, Section 163 of the Criminal Code and criminal negligence, 221 of the Criminal Code. Added to that, amended last year they can now be charged with dangerous driving, but I think that anyone with any experience in this matter of driving charges realizes, that it's a very difficult proposition to convict someone of criminal negligence or dangerous driving even on the street. The situation is now that the police enter a plaza to break up a rowdy gang that they either observe or they have received a complaint on, there is no authority for the drivers of those cars to produce their drivers' licenses even; if they have noisy mufflers, they still cant do anything about it...

MR COWLING: Do they know that?

MR ANDERSON: I was just going to mention that, Mr Cowling; it is getting to the point now some of these gangs are aware of this and they're sitting back and laughing at the police, which doesn't help the situation. Now I understand the only thing the police can do is wait off the Plaza and wait for them to come out, which they do, but it is an unsatisfactory situation. We have had three restaurant owners, I think, in Scarboro attacked in the last two years as retribution for laying complaints with the police and so on. Now we have no solution to this. The police have stated to us they don't want to enter plazas to enforce one-way streets and parking regulations and a lot of other nonsense; but they would like if possible to enforce careless driving possibly and making it possible for a driver to produce his driver's license. Now we don't know how. As a Conference, we are not prepared to suggest to this Committee how this can be done.

MR BECKETT: Has anyone suggested any amendment to any Act to make that possible?

MR ANDERSON: No, there doesn't appear to be any way, I'm afraid, Mr Chairman.

MR COWLING: What do the Mayors and Reeves think about this?

MR ANDERSON: I do not think they have discussed it; and we have not as a Conference submitted to them anything. Mr Cowling this has only come up within our own Conference in the last year as a serious problem, and we were asked to bring it, if possible, to this Committee.

MR COWLING: I think it's a very very great problem.

MR SINGER: The Don Mills shopping centre came to my mind immediately which is perhaps the biggest in this area. They have one-way streets, they have Stop signs the same as the Metropolitan signs- where they got them...

MR BURTON: They bought them- you can buy Stop signs from a number of companies.

MR SINGER: But these lanes are not laid out scien-

tifically at all with Stop signs and Yield signs and so on; no real basis. At the same time, I dont know what the answer is.

MR ANDERSON:

To supervise the parking regulations, these shopping plazas, when they attract 2000...they provide 2000 spaces for cars, some of the larger ones hire one of the number of protective agencies that are in this business now, but then they dont have any authority. If a person wants to park in a NoStopping zone in front of Steinberg's Market, and a man comes along with a uniform like Brink's or somebody or other, and tells him to move, he has no authority really to do this; and he cant also tell him he's not stopping at a Stop sign and so on. I was surprised to learn the police are investigating accidents at all these plazas as a matter of procedure only. The police will investigate every traffic accident, and there are considerable of them- they merely keep a record as a matter of any civil action, but they cannot, even if they find a man involved in the accident and witnesses to support the fact, they cannot charge him; this is merely civil.

MR EVANS:

Do you remember that man, Mr Chairman, up in Newmarket about two weeks ago, where a man was killed in a shopping plaza up there; he drove into one of the cement abutments.

MR ANDERSON:

Well we had a case in Scarboro about two years ago where someone was driving one of these go-carts- which was a matter of concern; fortunately it's dying out now- but the plazas about two years ago were the chief gathering place for go-carts because they couldnt operate them on the highway. We had a chap go through a plate glass window at the Dominion Store at Markham and Eglinton. And this was no teenager, but go-carts have died a natural death. We were concerned for some months what we were going to do with these go-carts but fortunately, they've died, and there's only a few of them around the plazas now.

MR BECKETT:

I imagine the owners of the plazas all carry insurance; do they Mr. Cowling?

MR COWLING:

Yes, they do. They all carry liability insurance, but I think, Mr Chairman the important thing here as far as the parking and what not, the people who drive on the plazas know that they're driving on private property, and I dont think that's too import-

ant, but the goings and the comings and the driving and the noise and the beating up of restaurant owners, to my mind that's a serious thing; and I don't see any reason why we couldn't give the police permission to at least ask for the driver's license. Now never mind parking regulations-that's picayune stuff. But this is important-I know on these larger...I think of the Cloverdale Mall, which is the biggest one in our area...there's a great big area there and a great place for these hot rod kids that are getting into no good, and the restaurant people and the bowling alleys...I would think the police should have some jurisdiction over that. And if we've gone too far...if we recommend to the Legislature that they do something about assisting the police, and if we find out in a year that we've gone too far, we can always amend it. But I think we should take some action, that we should recommend some action on that particular phase of it now.

MR MORROW:

I would agree with Mr Cowling very substantially. There is a problem in Ottawa. There is a shopping plaza or centre there and fifteen hotrods gather there at night at about eleven o'clock, and they lay bets who can be to Richmond and back which is 14 miles; so they all race to Richmond and back wide open to see who is going to collect the bet. Now if a policeman could pull in there and pick those guys up, either when they land back or.... before they take off....

MR SINGER:

The police could get them on the road.

MR COWLING:

Better that they're stopped in the plaza than on the road.

MR THOMAS:

Well in the shopping centre in Oshawa, I've seen police around there on patrol.

MR RICHARDSON:

Not on traffic patrol. And they will investigate accidents there but merely to have the information in case of civil action; they cannot lay any charges. I think it makes a big difference on these plazas how they're laid out. There's one in our area, Oshawa, with parking for 4400 cars; it's laid out with curbing placed between the rows of cars, so you can't get a very good run except on the main roads; and this cuts down a good deal of the shenanigans of teenagers in these shopping plazas. A matter of interest, this same

shopping centre had a number of signs erected, Stop signs at various intersections of the main road; about two or three months ago, they took them all down and put up Caution signs instead. I dont know what was behind it, but they decided that maybe they shouldnt have Stop signs up.

MR SINGER: That was a point I wanted to make. I agree with Mr Cowling that there should be control; but I dont think the average member of the public that goes into one of these shopping centres has any idea that these signs that are identical to the Metropolitan police signs, are illegal or improper or anything else. And I think that generally, when people see an arrow pointing, they think it is a one-way street and so on. And I believe that something should be done to restrict the use of this type of sign to the proper authorities, to Councils and Police Forces and that sort of thing; and if there are within shopping centres, any need to put up a Stop sign, there should be some power for the municipal council to pass a by-law to put it up in the shopping centre.

MR THOMAS: Now there might be something like that behind what happened in Oshawa, because two months ago they removed them and they have Caution signs put up- there might be something behind that; I dont know.

MR SINGER: Well there's half a dozen or so up in the Don Mills Centre and they cause more confusion than any traffic they control.

MR ANDERSON: I can only suggest Mr Chairman, I think that the legal profession and certainly the magistrates would wish some direction on this because I noticed from the discussion on this that took place at our Convention in Windsor last year; I noticed that a Sergeant Reid of Burlington, Ontario stated that our magistrate ruled four weeks ago that a shopping plaza, which is built and the public invited to use is, in his opinion, defined by Section 10 of the Highway Traffic Act, and the conversation goes on...so somebody's solicitor got up and said he would refer him to a good lawyer. (laughter) But some magistrates, we find, even at our own Conference...it was stated that he found it to be a public place. But obviously we know we cant get

away with it. And some of these gangs that hang around the plazas, I'm told by our Inspector- Metropolitan Inspector, that these kids know the law, and they say: Do you want to see my driver's license? Go peddle your apples somewhere else, and there's nothing they can do about it.

MR BECKETT: In other words, Mr Anderson, you think that shopping areas should be considered highways?

MR ANDERSON: No, definitely not...I'm afraid we're just compounding this whole thing. We are only suggesting there is a problem here; unfortunately we don't have the answer to it. But I also suggest, having talked only today with Chief Mackie of the Metropolitan Police Force and Staff Inspector Webster, they are concerned that an amendment might give them overriding authority of these things which they wouldn't want. Along the line that Mr Singer was saying, they would not want to come in to investigate parking incidents and a lot of petty...dropping litter on the highway. If you make that a highway, you're into a very very broad area and the police don't want to be bothered with that. This is a public property and it should be made so; but how you can define this or set it out where we can oversee two specific sections, driver's license and careless driving, I don't know.

MR RICHARDSON: And further to that, I don't know that the municipalities should become involved in telling these shopping plazas where they should be putting up traffic regulation signs; I like the suggestion of Mr Singer that these signs be restricted to use on the highway; I think this is a good point.

MR BURTON: In respect to that, Mr Chairman, the City's bylaw in that connection is that if someone erects a sign proposed to be a traffic sign or words to that effect, without going through the official channels, and this applies on the street or off the street or anything else; or if it interferes with the operation of a traffic sign- a traffic signal- something to that effect. Now we did apply this when somebody put up a thing that looked like a one way arrow on one of the streets; I don't think we've ever applied it in the specific instance of Stop signs because there are not many plazas in the city, but certainly there should be some legislation.

MR BECKETT: You no doubt made a study of these areas you are talking about; have any of your organizations come up with any suggested changes in legislation?

MR BURTON: No, I havent any specific information on that point.

MR BECKETT: How about it, Mr Anderson?

MR ANDERSON: The only area we have recourse to for comparison is this area again in the United States. I have talked to at Northwestern University last year, some of the Officers coming from Texas and various other areas in the United States. They have no problem with this but I suggest the reason is that they take greater latitude- their enforcement people take greater latitude with the law- but because we traditionally have common law, protected rights and so on, we have to act, and our enforcement agencies are bound to act accordingly.

MR BECKETT: Did you ask them whether they had any authority to do anything?

MR ANDERSON: Yes I did, and they do not; they just do it.

MR COWLING: No they just do it; I like that method too; that's the way we used to do it in the Airforce and talk it over afterwards. You get a lot done. (chit chat)

MR BECKETT: Mr Richardson, we'll certainly make a further study of this question and see if we can come up with anything; in the meantime, if you do, why will you let us know.

MR RICHARDSON: We certainly will, and if there's anything we can help you with in any line, we'd be pleased to put some of our committees to work and possibly come up with what the ideas are across the Province.

MR BECKETT: What about outside the Province- other jurisdictions?

MR RICHARDSON: Yes, we could investigate what they're doing in other areas and across the border.

MR BECKETT: Well thank you very much for coming. If you have any suggestions, be sure to send them along.

MR RICHARDSON: Thank you, Gentlemen.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-SECOND MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 June 21st, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

Warden Wilfred Wade
 Councillor George L. Yates
 Councillor Leslie B. Couldrey
 Councillor W. Lorne Freeman
 Councillor David Johnston
 Councillor Thomas M. Organ
 County Assessor A. Forest Thompson

PRESENTATION:

BRIEF - WENTWORTH COUNTY COUNCIL

WENTWORTH COUNTY COUNCILHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Mr Yates, would you like to introduce your delegation to the Members of the Committee?

MR YATES: First, we have Warden Wade, and Leslie Couldrey, Tom Organ, Lorne Freeman, Dave Johnston, and our Assessor of the County, Mr Thompson.

MR BECKETT: Mr Yates, we've had a copy of your Brief before, and if you would like to proceed, either read it or nay way you would like to take it.

MR YATES: Mr Chairman, Gentlemen, our Brief was submitted last fall, and it is in six parts, the first part deals with different amendments to the Act-different Sections of the Act; from B to F deals with Section 35, (3) of the Act which has been amended. We have a new Section we presented you with this morning, which our Assessor and the Assessment Division feels that Section 35 (c) is still not...well it poses quite a few problems, and there are possible suggestions that you can work on for suggesting amendments.

MR BECKETT: Would you like us to take that 35, (3) then-that's an important Section of the Assessment Act, and let's deal with that.

MR YATES: Yes, this new Brief is the part that was presented to County Council, and possibly we could have our Assessor read this over and give his explanation- Mr Thompson.

MR THOMPSON: Would it be all right if I read it through and then possibly there might be some discussion from it. (reads County Assessor's Report on Problems Arising From the 1962 Amendment to Section 35 of the Assessment Act.) "Before the 1962 amendments to Section 35.....of some \$700."(Page 2 end para 1) If I might leave the Report for a moment, Mr Chairman, in the County of Wentworth with which we are principally concerned, there are a great many of these lots which have been sold off farms, and are not being developed immediately, and these properties will, under the present wording of the

Section, if our interpretation is correct, will be entitled to a farm valuation, or to the partial exemption offered to farm lands; and this is principally true, because in the Section 35, (3) of the Assessment Act, it does not state nor does not imply or require that the lands be a farm; it says that the land must be farm land used only for farm purposes. If the Section had said that it must be a farm, then of course this would be an entirely different situation.

MR BECKETT: What about that Section of the Assessment Act that says a farm is 20 acres.

MR THOMPSON: In the old Act that was Section 20, but that applies only to that Section and that is for the eligibility of farmer's sons and daughters and so on for voting purposes. There's another Section-37 or 38- which suggests that 5 acres is a farm. Here again, it applies only to that Section, and it has reference to the partial exemption of taxes for certain services if these farms in excess of five acres do not receive services to the same extent as other farm properties or properties in the area do generally.

MR BECKETT: Just while we are at Section 37, we had a suggestion the other day that perhaps "school" should be added to that list of services that might be exempted. Do you cover that?

MR THOMPSON: In the Brief, Mr Chairman, our original Brief, in Schedule B, item 5- this is a submission that was made to the Wentworth County Assessment Committee for them to consider a possible solution to our problems, and item 5 suggests that 35, (3) could be amended by making use of Section 37 of the Assessment Act as a means of obtaining the proportion sought by 1 (a), deleting subsections 3 and 3 (a) of 35 thereby assessing all lands at their actual value, and (b) define in Section 37 the meaning of "lands held and used as farm lands only", and (c) extend the meaning of public improvements to include additional or all municipal services, and (d) prescribe rules regulating the amount of exemption from taxation. And then, Schedule C, again the Wentworth County Assessment Committee selected from what is now Schedule B a suggestion contained in that, and Schedule C attached to your original Brief, is a resolution that the Assess-

ment Committee proposed or presented to the Wentworth County Council; and it is based on a solution of Section 35, by making use of and expanding Section 37 to cover this type of thing. I must add, Mr Chairman, that this was not approved by the County Council. (continues to read Brief, Page 2 para 2) "Item 2. Many owners of small.....to the partial exemption." And again, Mr Chairman, if I may relate this to our County, we have in several of our municipalities, a number of somewhat luxurious estates; these are situated on large acreages and the acreages are being farmed and they do fall within the meaning of that Section of the Act, and these homes- many of them are extremely large, very luxurious, and they will, according to the present wording of the Section, be entitled to a farm valuation on those houses, because the occupant of the house is the person directing the farming of the land.

MR BECKETT: Do you agree with that principle then?

MR THOMPSON: No, our Council...I must speak as closely

as I can, Mr Chairman, to the expressions that have been made by our Committee and Council, and they do not agree with that principle. I think at the present time, Sir, these homes are not assessed on the basis of their value as farm houses; they are assessed the same as any other home on a lot in that immediate area, so that this will serve to reduce the assessed valuation of these properties.

MR BECKETT: Then you in either your main Brief or

this one have attempted to define the farm, or the farmer?

MR THOMPSON: No, Mr Chairman, we havent attempted to define it. We have very politely put our problems, I believe, in these Briefs before the Committee without attempting to get into the question as to what is and what is not a farm.

MR BECKETT: Doesnt that go to the very root of this?

MR THOMPSON: It does, Mr Chairman, there's no question whatsoever. If we had a definition of a farm and of farming...

MR MORROW: We're in the market for a good definition.

MR COWLING: We felt that the Association of Assessors might give us that definition.

MR THOMPSON: Well here again, Sir, of course I cant

speaking out of place, but I know that the County Assessor's Association did possibly two years ago, attempt to define a farm for Mr Sloan in the Department of Municipal Affairs at his request. And submissions were made; what the conclusion was, I'm sure I can't answer that. But definitely to answer the question directly, this would solve the problems, because it is obvious an estate home is not a farm home, and it is obvious that a 15,000 square foot lot is not a farm; these are problems that are answerable, but then there are so many borderline cases, borderline situations which, to my knowledge have always been a stumbling block in the defining of a farm.

MR BECKETT:

Mr Taylor, for information, would you turn to the Section of Municipal Act where British Columbia attempts to give a definition.

MR TAYLOR:

This is Section 3, 32 and it's subsection 4. Actually what they do, they give the Assessor the power to classify land; 5 or more acres in an area as farm land. And then in reading subsection 2, they say: "before classifying any land as farm land, the Assessor may require the owner or lessee to submit evidence of the facts, and the assessor shall be guided by the following factors:- (a) the proportion of the land actually under cultivation or used for agricultural, horticultural, poultry raising, stock raising, dairying, fur farming or bee keeping purposes. (b) the time devoted to its cultivation or use by the owner, his tenant, agent or servant. (c) the relationship which the value of the products of such land bears to the area of the land so cultivated or used." Then on in subsection 3, it deals with parcels of land of two acres or more but less than five acres. It reads: "in cases of parcels of land of two acres or more but less than five acres, which in the opinion of the Assessor is bona fide used as a farm, the Assessor, notwithstanding the provisions of subsection 1, may classify such land as farm land, if he is satisfied that the owner or occupier received the greater part of his total annual income from such parcel of land, and of which fact, evidence is submitted to him under oath or statutory declaration by the owner or occupier." Then in subsection 4:- "Notwithstanding Section 3, 30, land classified by the assessor as farm land, while so classified, shall be assessed

at the value of the same as for such purposes, without regard for the value for other purposes." And then subsection 5, "Notwithstanding the provisions of subsection 1, where a parcel of land is classified by the Assessor as farm land is reduced in area to less than five acres as a result of a portion being expropriated for highway purposes, the parcel so affected shall nevertheless be classified land as long as the use of the land is unchanged."

MR BECKETT: That was British Columbia consolidated into the Municipal Act, the Assessment and the Planning Act- put them all into one; that's part of their Municipal Act.

Digressing from the question for a moment, the question of definition, I see they have over 5 acres in one category- certain conditions are to be considered; and between 5 and 2 acres- certain conditions again; and then seemingly under 2 acres, it's out. The only question that comes to my mind concerning that, and I haven't seen this before, Mr Chairman, but they mentioned the raising of broilers; now we have a very definite problem, and it is mentioned further in this report, we do have fairly extensive broiler plant operations on half acre parcels. Obviously none of the feed is produced on the land, but it is an identical operation to that being carried out on a 100 acre farm- well this point is covered later in the submission.

MR BECKETT: Well I don't know if that would be of any assistance to you.

MR THOMPSON: Yes, it would be, Sir. A point if I might digress, in subsection 4, the protection that is extended is worded entirely differently from our own Act, and far superior on just having heard it read...

MR TAYLOR: (reads subsection 4 again) "land classified..... other purposes."

MR THOMPSON: "This shall be assessed at the value for farming purposes," our Act says: "we shall give consideration to the sale value of land sold for farming purposes," and I'm suggesting here, Mr Chairman, that we have many many parcels-many many farms which are sold far in excess of their value for farming purposes, but they are continued to be farmed; and under the wording of our section, it is

conceivable- this by the way was drawn to my attention by a Member of the Municipal Board yesterday at a hearing, that we could, as Assessors, construe that to mean that when the land is selling for perhaps \$500 an acre, and being continued to be farmed, that according to the wording of the Section, this is the value which we must take into consideration; whereas in fact, for farming purposes, it has a value not exceeding perhaps \$150 an acre. And we could get into some very very substantial difficulties in interpreting the Section strictly as it is worded.

MR CHAIRMAN: Then it goes back to what I said, the definition of a farm or a farmer. (yes) Would you attempt to draw up a definition?

MR THOMPSON: If that's a request, Mr Chairman, I would- I certainly would attempt to do it, Mr Chairman, I may be young and bold (laughter) but I'll...

MR BECKETT: Would you do that then and let the Committee have it.

MR THOMPSON: I will be very pleased to do it Sir. Will I proceed now Mr Chairman? (reads Brief, page 2, para last)

"Item 4. How many acres constitute a farm..... not principally engaged in farming." (end of small Brief)

MR COWLING: Mr Chairman, in talking about assessment we've had some people here and maybe you'd like to make a comment on it as an Assessor; he was saying that when the assessment appeal has gone through the various phases, to the County Judge and the Municipal Board, and a decision has been laid down for this year's assessment, the next year the local assessor can start that procedure all over again if he so wishes; and this gentleman's suggestion was that if it had come to the Municipal Tribunal, then if the local assessor wished to make a change in the assessment the following year, it should be up to the assessor to at least explain why he is changing it after the tribunal had set a figure. What would your comments be on that as an assessor?

MR THOMPSON: As an Assessor, Sir, I would think in asking that the Assessor give an explanation- a reason for so doing- I think it's very fair and very reasonable to expect of any assessor.

But had you concluded that by saying he shouldnt be allowed to change the value for a period not exceeding...not less than five years, I would have objected very strenuously.

MR COWLING: If you're going to change it after it has been set- naturally you can change it at any time it warrants change-I would go for that; but you would say then that a reasonable explanation as to why is...

MR THOMPSON: I think it is quite in order. If he has seen fir to change the valuation, then obviously it would be back again higher, I think it's reasonable to expect he should be able to give reasons for so doing.

MR SINGER: And then back them up in court?

MR THOMPSON: Yes. Well I think, Sir, that he would have to back them up in court in any event.

MR THOMAS: Well if the tribunal agreed that the assessment of that particular parcel is too high, and it was reduced, would it be true that perhaps all the assessment assessed in that particular municipality is too high- would it mean an overall adjustment?

MR THOMPSON: Not necessarily. There may be many reasons; it might be something peculiar to the individual property situation which the assessor hadnt taken proper cognizance of; it might be that...well for any one of a number of reasons...

MR MORROW: Maybe a clash of personality?

MR THOMPSON: Yes, maybe a clash of personality- it could be any one of a dozen reasons; but if this was pertaining to a number of similar properties, the assessor is obliged to either, if he believes he was right, to try again; if he accepts the court's order on one property, then he's definitely obliged to go back and review other similar properties, and make the somilar adjustments.

MR TAYLOR: Would that carry this far to put the onus of proof on the assessor to establish that his assessment is acceptable, that is correct? Or is the onus on the Appellant- this would reverse that burden- do you go that far?

MR THOMPSON: Not without a lot of thought, Sir. I am thinking in many instances, so much concerning the value of the

property is known only to the owner; and without this information access to this information as to the costs...construction costs, conditions affecting particular types of properties, the market conditions may affect it more than other types of property; and unless the assessor was in a position to have all this information available to him, and while I realize the Act does provide the assessor is entitled to all information necessary to make the assessment, it is still as an assessor it is very,very difficult to go to a contractor or to the owner of a property and ask for his construction costs,or his depreciation for tax purposes. And companies are very very reluctant to divulge this information. And from the standpoint of public relations it is often wise to refrain from seeking it; and if you're going to put the onus on the assessor to prove that his assessment is correct, you're going to force him into the position where he's going to go to these companies and have to demand this information, and you're going to have a very bad public relation situation, if nothing else.

MR TAYLOR: But that would only apply where the assessment is increased.

MR THOMPSON: I think there's a certain degree of onus under the present Section; he still must prove...it's up to the Appellant to prove him wrong, but he still has to show to the court why he's right. To suggest that the onus is entirely on the Appellant, isnt altogether the case in most instances; because the Assessor must still must prove that he has assessed this property similar to all other properties.

MR BECKETT: And you take your oath accordingly.(yes) And then after the Court, no matter what Court it might be, has reduced the assessment, say of three farms out of ten, you've taken your oath that you have assessed it according to the Assessment Act- its actual value- I would think an assessor the next year is almost bound to go back and say , well my assessment that I put on before, the one I swore to is the actual value, and he puts it on again.

MR THOMPSON: Unless he has reason to accept he has been shown to be wrong; if he has been convinced that he has improperly assessed this property in the first place, in which case as I have said

then he must go back and consider the same factors on all similar properties.

MR CHAIRMAN: While you're here, then, we've had several Briefs, and several members have made suggestions about County Assessors, and of course 93 (a) does make that revision. I suppose the County of Wentworth hasnt got a County Assessor under 93 (a)?

MR THOMPSON: No, we havent, Mr Chairman; there is one municipality in the County under the old 244 (a) of the Municipal Act. The County Assessor is the local assessor in one municipality. I'm sorry, Sir, I'm not familiar with the '60 Statutes, but the old 244 (a), where in the local municipality, with the approval of Council, may appoint the County Assessor as the local assessor- that is the Section.

MR SINGER: One of them was saying that they thought one County had a County Assessor?

MR THOMPSON: That is correct; it's Lincoln County; but that's under the new provisions of the Assessment Act.

MR COWLING: Is that the way it works in Wentworth? Are you the County Assessor? (yes, Sir) And you have local assessors working with you.

MR THOMPSON: That's right, each municipality. Well actually to be correct, Sir, I work with them.

MR COWLING: Well are they responsible to you?

MR THOMPSON: No. No, the County Assessor, under that Section of the Act has only the right to recommend and to advise, and then of course to report annually to the County Council.

MR CHAIRMAN: He is not a County Assessor under 93 (a)

MR COWLING: Would you like to be?

MR THOMPSON: Well I think different Counties have their different problems and different situations.

MR SINGER: I think perhaps we're putting him on the spot. (laughter and chit chat)

MR CHAIRMAN: I would like to ask Mr Yates, a member of Wentworth County Council whether it has been discussed or considered?

MR YATES: It hasnt definitely been considered

under the new Section but some of the municipalities are of the opinion that we should have County-wide assessment under a County Assessor to get true equalized assessment for all purposes.

MR COWLING: Do you think it should be an unanimous vote the way the legislation is now or do you?

MR YATES: The way it is now, no I don't think so.

MR COWLING: What do you think would be more reasonable, a majority, two-thirds?

MR THOMPSON: I'll leave that to the elected representatives.

MR BECKETT: Well said.

MR SINGER: Mr Wade, as Warden of the County, would you be awfully offended if the Province said:- You will have.

WARDEN WADE: The reporters are here and....

MR SINGER: Yes...well any one of you gentlemen, would you be awfully offended if the Province said:-you must have County assessment for all purposes; do you think that you will lose anything?

WARDEN WADE: Well it would be to our advantage-we have been making the assessment for years now and we haven't seemed to be very unanimous about it and....well...

MR COULDREY: I'm from Dundas and I'm prepared to accept the law. (laughter)

MR MORROW: I think Mr Singer means that the other assessors would be used under his...would be part of his staff.

MR THOMAS: Mr Chairman, I think there might be some objection from the local council; there would have to be an educational program carried on; but I do think it's an impossibility for some of these assessors in the small municipality on a part-time basis to do a job; some of them getting \$800 and \$1000 a year, just working in the summer time. I don't think you can do a job at all under those circumstances, and the answer to it is a county-wide assessor

MR MORROW: With some assistance from these other...

MR THOMAS: Oh yes, he'd have to have help, but he would be in charge of the whole thing.

MR CHAIRMAN: Well I was asking Mr Yates if it had been, in the course of recent meetings, been brought up in the Wentworth County Council.

MR YATES: May I say yes on paper, but when it got to the application, I think it would be....well

MR THOMPSON: Mr Chairman, sometime during the course of last summer, the Assessment Committee did ask myself to prepare a report on the advantages and disadvantages of the County Assessment System pursuant to that Section of the Act; that report was made, and the final conclusion in the report was that at the present time...the report I might say...the advantages far outnumbered the disadvantages of the system; but the report concluded that it was not opportune to debate the question in County Council, and that portion of the report went to Council, so the matter was not discussed in County Council further.

MR THOMAS: If a little bait was offered from the Provincial Government, do you think, that they would increase the salary of or the grant of...say from \$1500 to...put it to \$4000 or \$5000, they might bite at that one?

MR THOMPSON: I think that definitely there would be Counties interested- it definitely would interest some of them.

MR EVANS: Mr Chairman, in this report that you made, would it cost the municipalities more under the County System?

MR THOMPSON: No, Mr Evans, the cost was quite comparable with present costs, but there were fewer personnel involved- fewer assessors, higher salaries and of course mechanical equipment for the preparation of the rolls, notices and so on; but the cost-estimated cost was quite comparable.

MR THOMAS: And it did a more efficient job.

MR THOMPSON: In my opinion, yes, Sir. I might point out that in the County of Lincoln, it's still in its first year, and they still don't know what the outcome will be, but at the moment in discussing this with Mr Wilton, the Lincoln County Assessor, or the Lincoln County Assessment Commission, he believes that the cost in Lincoln for assessment will not exceed what it was for the total of what it was for all the municipalities previously.

MR COWLING: How many assessors- local assessors - would you have in Wentworth?

MR THOMPSON: There are fourteen. Some of these men are not full time assessors but they are full time employees in all instances. We have Clerk-Assessor combinations; Assessor-Building Inspector combinations and so on. They are full time employees, but their complete time is not devoted to assessing.

MR BECKETT: Mr Thompson, have equalization assessments in Wentworth worked out without any county assessing? Have there been many appeals?

MR THOMPSON: No, Mr Chairman, I have been most fortunate in this respect; since 1952, I believe there has been only one equalization appeal, and this was prior to 1957 when I started with the County of Wentworth.

MR BECKETT: You must have a pretty good factor then that you use? (laughter)

MR THOMAS:unanimously; there surely would be some objections, wouldn't there?

MR THOMPSON: Well I can speak specifically, Sir, since 1957 when I first came to the County-immediately after the equalization was made-I started in June- and since that time the County equalization reports have been very favourably received. We have the factors; the local assessments are not accepted as being equalized; they were in the mid to late 50's, but a year after I had started with the County, that was changed and a factor was used; and it has been accepted each year.

MR EVANS: Do you use the Government Manual?

MR THOMPSON: Yes we do-we are using the 1952 edition of the Manual...51 edition, I believe correctly ...

MR BECKETT: Do they all use it? All municipalities?

MR THOMPSON: They are all using it; there are slight variations of personalities and opinions on certain aspects; but essentially they're all using that Manual.

MR SINGLER: Are you assessing to actual value?

MR THOMPSON: No, Sir, we're not; we're assessing at

a third approximately of actual value.

MR SINGER: Would you think it would be reasonable to have assessors Provincial and qualified and licensed in the same manner as municipal auditors?

MR THOMPSON: I concur most whole heartedly- most whole heartedly- I think, Sir, that possibly I had better confess something; I am also in addition to being Assessor to the County of Wentworth, I am Secretary to the Institute of Municipal Assessors (laughter) and I don't want to hoodwink anyone...but I concur very whole heartedly.

MR SINGER: Would you tell us very briefly what your background is?

MR THOMPSON: Yes, Sir-very briefly, in 1953, I started as Assistant Assessor for the Town of Dundas and worked in the Town of Dundas as their Assessor until 1957, end of May and in the beginning of June, I went to the County of Wentworth.

MR SINGER: You have your matriculation?

MR THOMPSON: I have Senior Matriculation and the Institute of Municipal Assessors Training Course.

MR THOMAS: I think that should be the objective we should aim for, but it will take a little time, won't it? We can't get it over night.

MR EVANS: At the Assessors' Convention held recently, did you touch on this part of ...this point of licensing?

MR THOMPSON: It was touched on to this extent that a year ago at the Annual Conference, that two resolutions were submitted requesting of the Government, certain protection for assessors, shall I say...certain conditions for the appointment of assessors; these were rather far reaching; certainly more than we could expect the Government to approve. And a Committee was established to deal with these, to modify them and they reported at this recent Conference, and definitely this is a portion of.. it is touched on in this submission and this resolution ultimately will be going before the Cabinet or before the Hon. Mr Cass.

MR THOMAS: Well it has been suggested from the Ass-

essors that an assessor could not be fired without permission from the Minister- would it be that one?

MR THOMPSON: I think(chatting here) I'll be perfectly honest with you, Sir, I dont think I should...I have very strong convictions on the point...in the County of Wentworth, and assessor was discharged early this year, and I dont feel I should be too committal on the point. I'll just stop there. Possibly the Warden could have something to say, Sir.

MR COWLING: Mr Chairman, I was going to ask, does..

MR SINGER: Would the Warden just like to comment on that, Mr Chairman; would he care to?

WARDEN WADE: Well I dont think I should say too much about it because we've been very much divided in County Council-split right down the middle on some of these things; but what we want to get at the present time is something in the Act instead of them being told to use their own judgment. Sometimes it's very very good, but when it gets to the courts, if it isnt in the Act, well they dont stand very much chance of getting what we think we rightfully should have and being fair.

MR BECKETT: What would you want in the Act?

WARDEN WADE: Well to go back to this definition of a farmer, and there are certain other things there that we would like spelled out; before that amendment, it was in the Act, a person whose principal occupation is farming-well we think all you did was to strike that out without putting in anything else to define a farmer. Now we feel that it should be laid down so that it says clearly what a farmer is because the Judge goes back to the Act....

MR BECKETT: Yes, of course, they have to.

MR WADE: So I think we've been told well it works all right in such and such a county but unless it is clear in the Act, it's going to make it difficult for assessors because it doesnt say in the Act that they can do certain things. It used to but it doesnt any more and so....

MR BECKETT: What you mean, then is you think we

should define in the Act what's a farm and who is a farmer and ...

WARDEN WADE: Well the thing, I think, we're talking about-the assessor has already said these small holdings which are being farmed..the thing is we dont want the land given the protection but the owner in a house who doesnt have anything to do with that-if we can get that taken out and put into a lot, because he's certainly not farming but he's got the protection there and it doesnt say he hasnt in the Act. And we of the Assessment Committee are trying to point out if you would say something there that we can go to the Act and say what it says in the Act.

MR BECKETT: What would you think of a suggestion made yesterday in regard to farm assessment that the farm lands itself be exempt from school taxes-not the buildings.

WARDEN WADE: Well I think that was tried previously under Frost and that suggestion which was mzde some years ago was too hot for him. (laughter)

MR BECKETT: You think it would be a hot one then?

WARDEN WADE: I think it would if you carried the thing through. But as farmers on a farm itself, we're not so particular about that because we are trying to get away from exemptions-because the other people think we're getting something for nothing...but if this could be worked out...with these people who have a farm but they are working other places; if we take their house and lot, so they dont get the protection as farm land; if you would take the house and lot and put it in the same position as urban dwellings...but it becomes a problem when the operation is other than farms; and so we're here this morning to see if we can get this done so they couldnt go entering a yard of land as a farm and that they're a farmer; this has left the assessor with a problem.

MR BECKETT: It gets right back to a definition (yes)

MR EVANS: Well Mr Chairman, what you're getting at is what was suggested here before of not assessing lands for school purposes, but to assess the house and the buildings and say 5 acres at the same rate that you would an urban house in a municipality.

MR WADE: Of course you're getting a long way on

those buildings because they're very very extensive.

MR COWLING: You're talking about the house only,
not the barns and...

WARDEN WADE: The house..the dwelling and if he wants
a big lot, all right...

MR COWLING: Well most of the people we have had here,
Mr Chairman, and through you to the Warden, in discussing this problem,
have said that the assessment for all purposes should be on the house
and the farm buildings; and the land that's used for farm purposes
should be excluded from education tax. Now this is the first time, I
think, Mr Chairman, we've heard it said it should apply for all purposes
on the house only.

MR MORROW: House and the lot.

WARDEN WADE: Well we wanted to ask you this - to
put down house and lot.

MR THOMPSON: Mr Chairman, I think that in and around
the County of Wentworth- I have no idea, Mr Cowling, from where the sub-
missions may have come from- but we are getting a substantial number
of farms where the outbuilding development is increasing very rapidly;
we have a tremendous number of these large poultry buildings; we have a
large number of dairy farms on small acreages, and we are getting to
have some very, very healthy building assessments on many of these farms.
They are expanding their outbuildings very rapidly and very extensively,
and I think that's possibly why, for the County of Wentworth, Sir, the
suggestion is to restrict or to limit the total taxation to the resid-
ence rather than to include the outbuildings.

MR COWLING: Well that's a very good explanation, and
it's significant because it is the first time I have heard it said in
just that way.

WARDEN WADE: You see we have extensive buildings now
as we have milking pens and this sort of thing with milking cows. We're
really forced to do it because of our labour situation, and it's cost-
ing you more than it would for labour but you can't get labour; and so
because we have to do that, we have more buildings.

MR COWLING: What kind of a farm is yours, Warden?

WARDEN WADE: It's a dairy farm, Guernseys, (laughter)

MR BECKETT: There's one question, Mr Thompson, under Section 39, where the municipality may enter into an agreement with a golf club; it has been suggested that a farm could be treated in the same manner as golf clubs, that is the agreement of a fixed assessment; has that been considered at any time?

MR THOMPSON: Yes, Mr Chairman, I have discussed this with a number of people from time to time; and I think the real danger here, Sir, is that our problem in Wentworth is not quite the same problem that Mr Gray is having in the Toronto area. Here...where these lands are selling for very extensive sums, they will, within reason, they will be developed in a relatively short period of time. Our sales which take place on farms, in which the sale price is greater than its real value for farming purposes, may be 20, 30, 40 or 50 years and it may not be in our lifetime at all before it will be developed. The demand is there simply because people want to move to the country; they think that they're investing, and probably investing very wisely; but certainly these properties are away out- away out and beyond any immediate development. If this idea, which is set out in Section 39, were applied to farms, so that the amount of taxes...they would be assessed at their actual value of one-third thereof, and if the additional taxes were put on a ledger and were recorded, then I think frankly that before these farms were able to be developed, the taxes would far exceed the value of the property. And one point that was drawn to my attention concerning this suggestion, and that is, in the event of the death of an owner who may have piled up a sizable amount of...it's not arrears but delayed taxes...upon his death and on the settling of an estate, it could completely wipe out the equity that the beneficiaries may have in it...in this property. This is particularly true where they are paying these big prices so far in advance of any potential development. Now where the lands are being sold for large sums and will be developed within a reasonable length of time, this would work. I am confident it would, Mr Chairman, it has merit. But the situation in Wentworth, I feel that we would be imposing a terrific burden on these people in

in the event of death and in the event of a long delay before possible development.

MR MORROW: What are they paying, about \$5000 an acre?

MR THOMPSON: No, we have very little in that bracket Sir; we have in one municipality immediately abutting the City of Hamilton, in the Township of Stoney Creek, we have industrial developemnt going on and it's \$5000 an acre, \$6500 an acre; but outside of that immediate area, \$500, \$300, \$1000, \$1200 an acre-these are the range. Of course in the outer areas in the country away from the City of Hamilton, it will even drop to \$200 an acre. In one municipality it will go from \$200 an acre to \$5000 an acre.

MR MORROW: In the outer periphery, it's running around \$5000 and \$6000- I mean around the city.

MR THOMPSON: Yes. And the irony of it is, the difficulty of it is, that people are buying it and then farming it,...

MR COWLING: And they just cant make it pay.

MR THOMPSON: Not under those terms, no; they could not possibly. The economists at OAC that I've discussed this with, say very definitely that they cant pay more than \$100 to \$150 for this land. But people are buying it and farming it; but this relates, Mr Chairman, to a point I raised concerning the wording of the partial exemption aspect of 35, (3). At the moment, the wording is very loose and we could quite legally accept that \$500 per acre as the sale value and assess it at a third of that, and we wouldnt have a farmer left within a year.

MR SINGER: Have you given any thought at all to the frequent suggestion that there be some sort of fixed assessment on a farm similar to the golf courses?

MR THOMPSON: Well fixed assessment but would you then as in 39 of the Assessment Act, record these taxes. (yes) Well this point...

MR SINGER: Which would apply when the land ceased to be a farm.

MR THOMAS: Mr Thompson just discussed this...

MR SINGER: Oh, I'm sorry.

MR THOMPSON:

My answer was, Sir, if the lands were bought and would be liable to be developed within a reasonable period of time, this is fine; but if the time for development is likely to be many years hence, as is the case in the County of Wentworth, and I'm quite sure in Markham and all these Townships north of Toronto here, where they are paying far in excess of the value for farming purposes, it will be years before that land will be developed, I believe; this is geeting out of the immediate Metro area- and if this were to apply, on the death of these people, if they're not fortunate to live long enough to see this development, I'm almost sure that the tax arrears, if you want to call it that or the build up of unpaid taxes, would exceed the value of the estate.

MR SINGER:

And if it were to apply only if the use of the land changed...

MR THOMPSON:

There are so many pitfalls with these different approaches...when you make the change at the time of development, this is giving to the man who wishes to continue to hold over a great length of time while those around him may be forced to sell and subdivide and install the services the man who is fortunate enough to be able to hold back and continue to farm, you've giving him the opportunity to subdivide at everybody's else's expense, because the services are in.

MR SINGER:

Yes, but he's going to catch up his taxes when he subdivides. It may be as you say a long time, but if a man is able to sit and hold his land while they develop all around him, he's going to develop it at the best time; if he is going to sit while the big names run up to his borders, he's going to be in an advantageous position.

MR COWLING:

That's part of the game.

WARDEN WADE:

There is the problem when some of the owners would be able to do this, and they cant afford to sacrifice and I dont think they should be penalized if they want to hold those lands. He cant sell it to another farmer because it's too expensive and he is paying school taxes...

MR SINGER:

But your additional taxes dont become

payable when you change the use; you could sell it again as a farm or pass it on to one of his heirs.

MR BECKETT: Well thank you Mr Thompson...

MR MORROW: Mr Chairman, before Mr Thompson goes, I wanted to ask him about Mr Wilkins, is it the County Assessor for Lincoln,,

MR THOMPSON: Mr L.B. Wilton.

MR MORROW: Is he a member of your Assessors... your Institute of Assessors? (yes) He might be able to give us some useful information on the...

MR THOMPSON: Well he is not actually on the Committee but if this Committee would have some questions concerning that, I can definitely assure you that he will be there if you would like to have him. (chit chat re Wilson and Wilton)

MR YATES: Mr Chairman, the general-my feeling and the feeling of most of the committee here- some of the submissions we've made here, some of them do apply in Wentworth and in some small way, some of them; some, in a larger fashion, our feeling is that if we can assist you to recommend changes to the Act to remove some of the ambiguity from some of the clauses, so they can only be interpreted one way, then we will have helped in some respect, the whole Province.

MR BECKETT: That's quite a problem, Mr Yates; 2 and 2 makes 4, but when you try to put language to some of the statutes...

MR MORROW: We'll have to get somebody other than lawyers....so you can only interpret it one way. (laughter)

MR BECKETT: However that's a good suggestion.

MR YATES: I'd like to call on Mr Les Couldrey, the Chairman of the Assessment Committee to possibly take Part A.

MR COULDREY: Mr Chairman and Gentlemen, thank you for the opportunity of speaking. I'd like to make an explanation about this Brief. As you see on the front page the six items are variously proposed but a very limited amount of this was actually adopted as the unanimous opinion of Wentworth County. But all of these other matters came into the County Council for discussion and on some of them we were divided 13 to 14 or 14 to 15 and...I was Warden last year, Mr Chairman

and in that position, I felt that we were disintegrating in this kind of vote, so I feel...I managed to prevail on County Council to say we had a variety of opinions, and you gentlemen are going to receive a variety of opinions from all kinds of people and you, as the Select Committee will receive this variety of opinion and make what you can of them. That's the reason why this diversity of opinion has come to you; it is not coming to you as the opinion of a united Council, but these opinions were all expressed in our Council and if there is any value in any part of it, we thought you could take and sift it out. That is why it is coming in this form.

MR COWLING: Would you be in a position to tell us the items that were carried by a majority vote?

MR COULDREY: Well it's very simple, Mr Cowling, this one, A, has come with the approval of County Council; B was considered by the Assessment Committee- no comments; C was approved by the Assessment Committee-it didnt pass Council; D is a representation made from the Township of East Flamborough and submitted to the County Council- no vote was taken on it because there was that danger of dividing, but in the long run, County Council did agree to let these..all these pages of opinion come here.

MR BECKETT: All right, fine. Now do you want to read it or give your comment on it- just whatever you'd like to do.
(reads long Brief, A) "Section 4 (3)-exempts.....amended accordingly."
(A, page 1, end para 3) We had in the County of Wentworth parish halls and other types of church buildings that are used in competition with perhaps private halls, and that's why we think there should be something to clarify this situation.

MR MORROW: Mr Chairman, I believe they have received exemption by Private Act.

MR BECKETT: Then there's nothing we can do about it.
(discussion re private Acts)

MR COULDREY: Cemeteries were probably religious or communal when this Section was put together and not commercial; but now we find that some cemeteries are run on a commercial basis, and we suggest that might be worth looking into too.

MR BECKETT: I think that's a good idea.

MR COULDREY: (continues, page 1 c) "Section 4 (17)

Exempts from.... to be 30% of the residence."

MR THOMPSON: Well Mr Chairman, the problem here

in Section 9 is the part residence and part business...actually there is something illustrated in the next paragraph. We've had instances where possibly 95% of the home is used as a residence and possibly 5% for business and here we apply 30%-we consider that 30% is used for business and actually the reverse situation is true, and we have had in the County a number of obvious and glaring examples of where... in Waterdown, we had a man who had a very small portion of his basement was used in connection with his business and he had a large home; now if we had taken the 30%, his business assessment, and I only use this for the comparison, his business assessment was substantially higher than any of the small businesses on the main street or in the main business area of the village. Now this is a ridiculous situation. Or we had another example, rather an amusing where a contractor operating from his home- again 50% of 30% of his residence- moved to a store on the main street of Dundas, and he developed a good business and when building slowed down, he moved back to his house-his basement office. When he moved to the office on the main street, his business assessment was less than it was in the basement of his home because we took 30%

MR CHAIRMAN: Have they a zoning by-law?

MR THOMPSON: No, although we do have in strictly residential zonings, we have business assessments apply. If the by-laws are not enforced, of course the assessor still assesses where he finds them.

MR SINGER: Why then if this produces an inequity do you pick 30%?

MR THOMPSON: We dont, Sir; the Act stipulates that it shall be 30%. These are actually in sequence as they are found in the Act, but there's a paragraph 9 of this same Section that says that only the portion used for business shall be taken for business assessment, except where under this clause(g) where they are doctors,

lawyers and oculists, oralists etc and the whole group are named, and in this instance we must take 30%; in all other instances you take only the actual area that is used.

MR MORROW: In Ottawa, they take the number of rooms; if it is a seven roomed house and you're using one room, they take one-seventh.

MR THOMPSON: That could be done; actually we take square footage for our basis, because the rooms can vary in area; one room out of seven doesn't necessarily represent one-seventh; similarly a room on the ground floor is more valuable than a room on the third floor and so it goes, and so we take the area used and proportion it.

MR MORROW: I agree.

MR THOMAS: If they only took one-seventh, it would not be complying with the Act, would it-the 30%?

MR MORROW: I don't know; it's a rough estimate- I have an office in my home which has seven rooms and they take one-seventh. (chit chat here and jokes re conflict of interest)

MR THOMPSON: I can give you another rather amusing instance of the application of that Section, where a contractor had a very nice home, very luxurious home with a basement recreation room, a two-car garage, and the point that burns particularly was his swimming pool; when he learned he was paying a business assessment on his swimming pool, this was...well it was included when you take 30% of the real value of the property- it has to be included if you follow the Section.

MR COULDREY: (continues Brief, page 3, last line)
"Section 9 (11) Farms and Market Gardens. Exempts.... local level of assessment." (page 5, end para 2) Now the rates were set in 1904 and are still being used.

MR BECKETT: That's correct.

MR COULDREY: And we are using the 1940 rate in the 1951 edition of the Manual. (continues, page 5, (k)) "Section 20. Assessment Roll. Section 20 provides..... guidance of assessors." This Section was added in 1946, and it apparently has never been used. (continues) "With the increasing.....level of assessment." (page 6

end of (m) Mr Chairman, I think Mr Thompson could advise us of this.

MR THOMPSON: I dont know if that needs explanation, Mr Chairman and Gentlemen, but it is this, we have in the County of Wentworth used values of 1945 and you understand the transmission rates are roughly 1940 and we have no problem; but if we reassess to bring our values to say, 1950, as has been done in many municipalities, or several municipalities, then obviously the pipe lines are not assessed equally. Similarly in the northern parts of the Province, where many of the assessment valuations are considerably less than the 1940 year, the pipe line companies are at a very unfair advantage. I'm neither for them nor against them, but I think we should have a provision to bring them in line with whatever the local level of assessment might be.

MR BECKETT: How would we do that?

MR THOMPSON: Quite simply sir, by using the construction indices; if the legislation will insert what base year these costs for rates are predicated on-if they are predicated on 1940, plus 20%, and I think they are, that should be stated, and if the local level is say, 1950, then the indices between 1940 and 1950 are simply worked.

MR BECKETT: You have to have a base year?

MR THOMPSON: That's right, Sir; the rates in the legislation would have to specifically say, not 1940 plus 20% but 1940 or 1950, whatever it might be and then the local municipality would also have to be specific as to what base year. If the suggestion made before that a mandatory Manual be used, then the rates would be taken right out of the Act and put into the mandatory Manual.

MR COULDREY: Would you like to explain about Section 47, the Railway Assessment?

MR THOMPSON: Well briefly, Sir, without reading through it's the quinquennial system of railway assessment which we have now. We take exception that they should be given a five year fixed assessment, or fixed on the last revised assessment. We do have instances where the assessor values the railway plant and makes a little error or makes a change in their valuation, and the following year the lands are subdivided along side the railway right of way, which would norm-

ally give him authority to raise the level of the assessment on the railway right of way, we cant do it for a period of five years; and I dont know the original purpose of this, but surely in this day and age when all other business have annual assessments, why this should be.

MR MORROW: Mr Sloan last year touched on this, Mr Chairman, but he said they had been getting excellent cooperation from the railroads.

MR THOMPSON: I must confess, Mr Chairman, we did this just a year ago, and we got wonderful cooperation from the railroad.

MR MORROW: Well that was part of the bargain.

MR COULDREY: (continues, page 6 (o) "Sections 53 & 54, Additions.....used as a residence." (page 7, end of (p)) I think this applies in Wentworth and in one municipality particularly, just getting an official plan, they have passed a by-law requiring homes to be of 1150 sq. feet, which may make it difficult for many people to erect homes in that Township.

MR THOMPSON: Basically what we find in counties, local councils are being encouraged, in order to keep the taxes as equitable for one ratepayer as another, they find it desirable to increase the size of the home by by-law-by a zoning and building bylaw; so that each home will pay its own way. This is the argument which we hear time and time again. But it has reached the point, I suggest, Mr Chairman, where the municipalities are now requiring homes which are far in excess of the financial reach of some of the people; and they are certainly beyond the needs of other people. A retired couple do not require a two bedroom home of 1150 sq. ft.; and yet if they want to build in that municipality, they must build 1150 sq. feet. Then too, Sir, we have many substandard dwellings; summer cottages become residences- permanent residences; they're substandard in size, in construction, and if a more substantial minimum tax were applied to all properties, to all residential properties, you would, I think, overcome the necessity for these by-laws requiring the larger homes, and ease the burden on people desiring to build a better home. At the moment it's accepted, Sir, that people who build a \$30,000 home in our county

it would be assessed for \$10,000; if you build a \$9,000 home; it would be assessed for \$3,000. And invariably the smaller home requires the greater amount of services. They have the larger number of school children, and more frequently they're on the welfare, and this problem--all aspects of municipal government is reflected. And if a minimum tax on these residences-- something more substantial than \$6 were employed, I think it would be a help to the municipalities; possibly it would encourage people to build better homes and also to repair older homes--fix them up.

MR BECKETT: What size of a house should you have in order that there would be sufficient taxes levied any place?

MR THOMPSON: Well I have recently prepared a treatise on that subject, Mr Chairman, for one of our municipalities, and they think that the 1150 sq ft was the maximum size that they dare go to put in their by-law; and yet the actual figures that I produced showed that a brick home-- a good brick home with a garage--they would require 1300 sq. ft. before it came up to the minimum cost in that municipality per home, the present minimum cost per home in that municipality.

MR YATES: Mr Chairman, in our own Township, the assessor came up with a figure--we have it in our by-law, of 1050 sq. ft., a brick home; and figuring the minimum tax would cover their services.

MR BECKETT: Does that cover school taxes too? (yes)
How many children, two?

MR THOMPSON: In the municipality that George is speaking of, they figure on two per home, yes. Actually what they did in arriving at this 1050, whereas I told them it would require 1250 sq. ft. I believe, Sir, they simply took the average tax bill and divided the total amount of taxes by the total number of residents and allowed for the industrial and farm assessment that they had, and they realized that they had to have so many dollars for each home-- from each residence in order to make that pay, on the present standard without increasing; and this is the basis that they used to arrive at it; but they have gone below that size in their by-law.

MR COULDREY: Section 130 did apply to Wentworth last

year or the year before, but now it doesn't. It was included in the Brief so it's been left here. I think the Assessor should explain this too so we can put it across properly.

MR THOMPSON: Section 130 of the Assessment Act provides for a separate business assessment roll, and the problem here, Sir, in Wentworth the one municipality used a separate roll and are now using a combined roll. The difficulty is this, where the assessment roll is returned after the equalization of assessment for the County, the equalization section states that we have to use the last revised roll. We took the last revised assessment roll for business say a week after the equalization report is completed, then the business assessment roll of the previous year must be used; and for ascertaining the percentage of county costs if in that municipality there was a substantial amount of new industrial and commercial development, it would mean that they would not be....the proportion of their share of the county costs- that new assessment would not be used for one year. and all other municipalities using the combined roll, they would be paying right up to the last minute; and it is an unfair advantage.

MR COULDREY: (continues Brief, page 8, (r) "Section 131; Cancellations.....to this section." Will you explain this Mr Thompson.

MR THOMPSON: Essentially it is this, where a business ceases or is closed after the return of the roll, there is provision for the Business Assessment, the taxes can be refunded, but the real property assessment must continue on for the remainder of the year at the higher or commercial mill rate. Now there is provision where a new business starts after the return of the roll-there is provision to increase the mill rate, to raise the property to the higher rate for the number of months remaining in the year; and it's our submission that if we can increase to the higher rate, we should also be directed to decrease to the lower rate too.

MR BECKETT: It works both ways.

MR YATES: Mr Chairman, I think that completes it as far as the Brief goes; but the gentlemen who have come down with

me- I know we're running into your time of adjournment- if they would take just a couple of minutes to say a few words.

MR FREEMAN: I would like to say a few words. After listening to what has gone on this morning, I brought my tax bill along and I thought I would like to make a comparison. There have been different men from different places where the farm assessment is partial exemption. I am an exception to that. Now I took the county rate in our municipality which is 10 mills, the High School rate which is 8.3; school area rate which is 19 and our debenture rate was 10.9; and I figure every person gets a fair share out of that rate. I find that on my own farm assessment which is 49 mills and that gives \$385.14. Now when our mill rate in our municipality totalled 64.6, and it takes almost a \$6,000 assessment to raise that amount of money- \$6,000 assessment raises \$387.60, I believe. So I feel that the farms with all their partial exemptions, are paying their fair share.

WARDEN WADE: I'm paying a lot more. (laughter)

MR JOHNSTON: Mr Chairman and Gentlemen, it certainly has been a pleasure to attend here this morning, and I think that with the Brief that we have submitted on behalf of Wentworth County is something that can be considered. Being the Government and used to abiding the Act, as you know the Income Tax Act, and I find...

MR BECKETT: We have no alternative. (laughter)

MR JOHNSTON: Loopholes bring on appeals and they come up as amendments to the Act, and I think that is what the Assessment Act needs; and I hope you gentlemen will consider that, and we'll be only too happy to cooperate in that respect. I thank you very much.

MR ORGAN: Mr Chairman, I havent much to say; I'm from East Flamborough and I'm very thankful for the words "principal occupation" taken out-today we've just got the one...

MR BECKETT: I know it...you're a farmer.(laughter)

MR ORGAN: Yes, yes I am. Our assessor has been assessing the farms and they are a lot over for the owner to make a living off them, the lot and dwelling. We think it's only fair that the urban dweller...well that's all I have to say.

MR BECKETT: Thank you very much. Mr Yates, are

there any other comments that you'd like to make, and we will certainly take into consideration your suggestions.

MR YATES: I don't think so, Mr Chairman. We thank you very much for having us here today; and I was just going to ask you are there any questions that the gentlemen of the Committee would like to ask us while we are here? May be we could answer them; we will try anyway.

MR BECKETT: Would the Members of the Committee like to ask any member of the delegation any question? I think we've done pretty well Mr Yates, and we appreciate very much your coming and if Mr Thompson would give us that...those two definitions...

MR THOMPSON: Thank you, Mr Chairman, I will do that at the earliest opportunity. And I do sincerely appreciate this opportunity and I will...I'll try to submit something.

MR BECKETT: It will be much appreciated. Thank you very much and if you have any other suggestions, please send them along.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-SECOND MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

THURSDAY,
 June 21st, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Alfred H. Cowling
 Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

W.R. Callow
 J. McCubbin
 C.E. Norris
 Alderman Horace Brown
 Alderman Margaret Campbell
 Alderman Alex Hodgins

PRESENTATION:

BRIEF - THE CORPORATION OF THE CITY OF TORONTO

APPEARANCE:

Mrs G.S. Vickers	Mrs J.W. Falkner
Mrs T. Murphy	Mrs E. Eaton
Mrs C.B. MacPherson	Mrs F. Burger
Mrs W.D. Walker	Mrs N. Caskie

PRESENTATION:

BRIEF - ASSOCIATION OF WOMEN ELECTORS OF TORONTO

THE CORPORATION OF THE CITY OF TORONTO

THE ASSOCIATION OF WOMEN ELECTORS OF TORONTO

HOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Mr Callow, would you please introduce your delegation to the Members of the Committee.

MR CALLOW: Mr Chairman and Gentlemen, from the City of Toronto, we have Alderman Horace Brown, who is the Chairman of the City's Welfare, Fire and Legislation Committee; Alderman Margaret Campbell, Q.C., one of the Alderman from Ward Two, a member of the same Committee, and the City Clerk, Mr Edgar Norris; and with me is Mr James McCubbin, Q.C., who is the Deputy City Solicitor.

MR BECKETT: Now, Mrs Vickers, would you kindly introduce the ladies.

MRS VICKERS: I'm very pleased to introduce Mrs Thomas Murphy, who is a Vice-President of our Association; Mrs Norman Caskie, Treasurer; Mrs J.W. Falkner, a former President; Mrs W.D. Walker, also a former President; Mrs C.B. MacPherson, also a former President; Mrs Francis Burger, a Vice-President and Mrs E. Eaton, a former Secretary.

MR BECKETT: Thank you, Mrs Vickers. Now Mr Callow if you want to commence with your Brief, you can take it any way you want it, read it or comment on it-whichever way you want.

MR CALLOW: All right Mr Chairman, I'll read it-there may be some parts we can pass over very quickly-we'll see how we get along, and if there are any questions that the Committee might have we might as well deal with them as we are going along.

MR Chairman and Gentlemen, (reads Brief, page 1) "The Government of the City.... ..City of Toronto." (page 1 end of para. 1)

MR BECKETT: Now Mr Callow, may I interrupt right now and I'll ask Mrs Rowan to read the Terms of Reference.

MRS ROWAN: "Ordered that a Select Committee of this House be appointed to inquire into and review the Municipal Act of the Province and the related Acts, including the Assessment Act, The Department of Municipal Affairs Act, The Local Improvement Act,

The Ontario Municipal Board Act and the Planning Act, and the regulations made thereunder for the purposes of modernizing, consolidating and simplifying such Acts and regulations, and making such recommendations as may be necessary for their improvement."

MR BECKETT: Now I'll ask Mrs Rowan when we use the words "related Acts", how many related Acts there might be.

MRS ROWAN: Well, I think it's close to 100 Acts including these Acts which are mentioned.

MR CALLOW: There is some scope, Mr Chairman.
(continues Brief, page 1, para 2) "The Council is
.....the other area municipalities." (page 2, end of para 3)
May I comment on this, Mr Chairman; this comes about by reason of the way the Metropolitan levy is calculated under Section 231 of the Municipality of Metropolitan Toronto Act. Now dealing with the Statutes specifically, the first one is the Municipal Act, and in this connection, there are a number of submissions which we have to make in connection with election procedures. (continues Brief, page 2, last para)
"1. Elections - Report No. 19 he might at will remove."
(page 4, end of 3 (b))

MR COWLING: Would you comment on that, would you Mr Callow, what's the purpose of this last one?

MR CALLOW: Of 3? (yes) Well that of course would correct one of the difficult situations with which this Committee is perhaps familiar which occurred up in the Muskoka District, whereby persons who are summer residents, of course, would not have an opportunity of voting, unless they are full time residents. Now of course this is an amendment to a general statute-this wouldnt only apply to the City, so this would be general in nature.

MR COWLING: I didnt think we had any such residents in the City of Toronto.

MR CALLOW: No, not in Toronto, but the suggestion is that the definition should be possible, generally speaking, and I believe the definition is taken out of the Provincial Elections Act

MR COWLING: But we dont have the particular problem

here in Toronto.

MR CALLOW: That particular problem insofar as 3 is concerned does not exist in Toronto.

MR NORRIS: I think the idea here is that we have similar qualifications as does the Provincial Election Act; if you amend yours, we wish to amend ours so it is uniform.

MR BECKETT: Well we propose to deal with those and to see if we cant make them all gibe.

MR CALLOW: The necessity for uniformity on this score will become apparent in one of the recommendations which we'll be coming to later. (continues, page 4, para 6) "Qualification for voting..... such by-laws."

MR BECKETT: You might stop there for a moment. Is there any reason that this is suggested.

MR CALLOW: Well basically, this proposal, if implemented, would do away with the system of multiple voting which has existed heretofore. In the case of the City of Toronto, which of course is divided into Wards and persons with the proper property qualifications, are entitled to vote for aldermen in each ward in which they own property. Under this proposal, they would not vote in other wards; they would vote only once in a municipal election. And so similarly, in the case of voting on money by-laws, the same situation would obtain.

MR BECKETT: And yet at the same time, you allow people to be elected to Council who do not own property, and vote on Council for capital expenditure, and yet when it comes to a vote, he cant vote at the polls.

MR CALLOW: If he were a ratepayer, he could vote.

MR BECKETT: I'm saying that members of Council have not got to be ratepayers; and he can vote on Council on all capital expenditures, and yet when it comes to the voting on a money by-law, when it is submitted to people, he cannot vote.

MR CALLOW: Well, at the present time...

MR BECKETT: Now that's right, isnt it?

MR CALLOW: No, he must be a householder as defined

by the Act.

MR BECKETT: But he's not a ratepayer.

MR CALLOW: Not necessarily, but he may be qualified through his wife.

MR BECKETT: No, no, a tenant can be elected to Council.

MR CALLOW: That's correct.

MR BECKETT: But he cant vote on money by-laws (yes) when Council votes.

ALDERMAN BROWN: I would have to agree with you on that, Mr Chairman....

MR BECKETT: I'm not casting any reflections.

MR BROWN: No, and you're quite right; I've pointed this out before; in fact I've pointed this out in Committee; it does seem to me to be an anomaly that this sort of thing can happen. I'm very pleased to hear you say it and it certainly deserves some thought on that matter; that you could be Mayor of the City, but you couldnt vote on a money by-law.

MR BECKETT: You could have your whole Council tenants and not able to vote.

MR BROWN:- Yes, you could have your whole Council composed of people who couldnt vote on money by-laws in an election; but they could vote a million dollars in the Council, and my own personal opinion is that they should all be treated equally and they all should be allowed to vote on money by-laws.

Alderman Campbell: May I comment on one point, in this business of restricting to one vote only, we did have in mind the inequity of the present situation where a person may own many properties in one ward-he cannot vote more than once. But if he is fortunate enough to own properties in each ward, he could then vote in each ward; and it seemed to us an inequity on that point.

MR CALLOW: (continues page 4, para 6, line 3)

"The porcedure for.....said report." Now Mr Chairman, our Brief here is quite long, so therefore we took the liberty of not including this whole letter, but copies are available for Members of the Committee, which sets out this proposal in a little greater detail. So as

part of this submission we wont read it at this present time; but basically what this submission has in mind is to eliminate the present system of multiple voting. Now the next matter, (continues page 4, para 7) "In the event.....event be adopted." (page 5, line 2)

MR BECKETT: When you say by-law, do you mean other bylaws?

MR CALLOW: It's intended to cover generally questions, yes.

MR BECKETT: Well, such a question as Sunday movies?

MR CALLOW: Yes, that's right-all municipal questions or bylaws other than money bylaws. (continues, page 5, line 3) "Designating on Voters' Lists..... qualified to vote." (page 5, end 2)

Now this is suggested because of the complexities of handing out ballots at the present time because of the various ways in which persons can vote; sometimes they can vote for Mayor, Board of Control and Alderman; sometimes they can vote for Aldermen; in some cases they can vote on money by-laws and so on. The idea is that if we do not have this uniform scheme of having voting based on residency as it is set out before, then there should be a means by which the Voters' List will show opposite each name the various offices for which the individual may vote, so that the DRO can insure the proper ballot is given to him.

MR BECKETT: It wouldnt be too complicated.

MR CALLOW: I wouldnt think so, no; I think that that could be set out on the List.

MR BECKETT: How many classifications would you have?

MR CALLOW: Well we have a number of alternative proposals here....

MR BECKETT: Well let is stay with that one; you say:- "in the event the proposal to base the qualification....is not put into effect" then you have a suggestion.

MR CALLOW: Yes, there are four- four isnt it, Mr Norris?

MR NORRIS: There are actually five or more- you see the Act now requires you to put the qualification line for Owner Disenfranchised, Tenant, and you go on in the Act to say who people

can vote for, and certain ones are disqualified from voting such as a non-resident tenant. We wouldn't put this qualification on the Voters' List except in the case of an Owner to provide for voting on money by-laws and in every other case in Toronto we have a multiple ballot- a composite ballot, and we have a P-1, P-2 and a S-1 and a S-2 and we have an X ballot for resident voters. We could use those designations or any other designations; and we would advise all voters on the assessment roll perhaps, how they are designated on the Voters' List; so that when they go in to vote, the DRO wouldn't have any option, he'd look at the Voters' List and whatever designation was given to the voter, he'd hand out the ballots. At the present moment, the voter goes in to vote and the DRO has to ask him a number of questions:- Do you live in the city, and have you voted before; they don't know where the city limits are and they may live in Etobicoke and they think they are in Toronto. It is most confusing to the electorate. If we would make inquiries, diligent inquiry, before the List was prepared, and designate on the List where and what the electorate was entitled to receive in the way of ballots on Election Day, it would make it much simpler on Election Day; and in addition to that, he would know the people who are entitled to vote for Mayor and Controllers where they live. Now, they don't know that. They tell the DRO they're not on the List where they live or the DRO doesn't bother asking that question, because they have an opportunity of voting more than once

MR BECKETT: Do you think it would simplify matters?

MR NORRIS: Oh absolutely, there's no question about it. If you would see the Voters' List now, and had to read the instructions to apply to these qualifications on the Voters' List, it's very confusing, particularly when you have an election every two years, and you are not familiar with all the requirements every other year.

MRS VICKERS: Mr Chairman, and Gentlemen, I would like to support Mr Norris, particularly since about ten of us from our Association acted as DRO's in the last municipal election to discover just precisely how this situation worked out. I think there are perhaps seven of us here, and there isn't one who wouldn't support Mr

Norris' suggestion. This is really a very confusing matter for the electorate and a great deal of time is wasted, and I think the word I should use is irritation of the electorate when they come up against this situation. You think it is simple; by the time you unscramble the alphabet soup, and explain to the voters what they are supposed to vote on and why they are given a ballot qualifying them to vote for the questions and the money by-laws, or the Controllers and so forth, it wastes a great deal of time and it made some of them very unhappy. I must say we most heartily endorse this suggestion, based on real experience.

MR CALLOW: Now the next item, Mr Chairman, (continues, page 5 (3) "Tabulation of votes..... poling places."

MR BECKETT: Would they be appointed by Council?

MR CALLOW: They would be appointed by Council, but they would be a permanent employee rather than going through the business of appointment for each individual election. They would be permanent employees and it would be done at one place.

MRS VICKERS: Mr Chairman, may I add a word here to have it on the record, it was my experience...in one ward in the last municipal election, we had 26 candidates for office. It so happened that both the sitting aldermen choose to run for Controller, and this opened the field, and we had other candidates as well. And we had one of our DRO's stagger across the square and sometime well after midnight, carry her box, because it had taken so long to count the ballots; in addition to the fact, she was assisted by a poll clerk who was quite deaf, and whose hearing aid kept failing; all of this was carried on in a rooming house, and we had to compete with the roomers who were objecting to the noise as we tried to tally the vote. This is actually a true picture of what happens. I happened to be the DRO at that poll; so again I endorse the suggestion that some more efficient method be devised.

MR BECKETT: So you back that idea of having permanent DRO's?

MRS VICKERS: Yes, Sir.

ALDERMAN BROWN: Mr Chairman, there is a little error

here-I believe the intention in the original report was, a suggestion by the City Clerk that permanent employees of the City could be used.

MR NORRIS: We did intend that we could use permanent employees of the Corporation, but we didnt want to be tied down; in the counting of ballots we might have to make a return to the administrators too the same as we do at the present moment- provide them with that service. The trouble is to find election officials whom you can hold responsible afterwards. We have tried students; you would think that students would be very competent, but in view of the fact that they're busy with their studies, many of them dont turn up on Election Day to perform their duties; and we have no record of what happens to them afterwards. If we had permanent employees, we know who they are, and they feel some responsibility in carrying out their work in a very competent manner.

MR MORROW: Arent there enough offers from the experienced DRO's in the Provincial and Federal Elections?

MR NORRIS: In the Dominion and Provincial elections, you have one ballot, and they vote for one person; in Toronto we have Mayor, Controllers, Aldermen, Board of Education, perhaps a question, Separate School Board- you have the tabulation of all of these votes; if not completed we send policemen out to pick up the boxes and bring the DRO's back to the City Hall and finish the count in a number of cases. For instance poll clerks are pretty well 100% women now; and ordinarily, a few years ago, we used to promote poll clerks to the position of DRO. Now we pick our more competent women and appoint them as DRO's, but we're limited too..and a lot of the hours are very long- 10 AM to 8 PM, and the tabulation takes place after that. And we find a lot of errors are made in the tabulation of the votes because of the long hours. For these reasons, we have considered it would be...

MR MORROW: But you're asking for an extension in the time of voting here in the next paragraph.

MR NORRIS: This is just a declaration...this is the official return which will give us an opportunity of just checking the preliminary....

MR THOMAS: I think the suggestion of a central office for the count is a very good one, and one that should be done.

MR NORRIS: In addition to that, there is a possibility that a lot of the counting will be done electronically--there are some difficulties and the expense involved at the present might prohibit it.

ALDERMAN BROWN: I think electronic would be very valuable, not only in tabulating it more quickly but more accurately.

MR SINGER: Are you talking about voting machines?

MR BECKETT: No no, not yet. (chit chat re machines)

All right Mr Callow.

MR CALLOW: (continues, page 5 (4)) "Extending time.....of Metropolitan Toronto." (page 6, end of 6 (d))

MR COWLING: Why, Mr Callow, why should they be a resident of the Metro area?

MR CALLOW: Well, we have basically a provision that they must reside within five miles.

MR COWLING: Well why that?

MR CALLOW: Well it depends on how far you want to take it...

MR COWLING: Well what difference does it make, actually; if a person wants to stand for municipal office, what difference does it make if he comes from Bracebridge? The people know where he comes from, and if they decide they want to be represented by a Bracebridge man, why that's up to them, isn't it?

MR CALLOW: That may possibly be so, Sir, but it is keeping it somewhat in line. I mean we're making a fairly drastic suggestion here by eliminating the property qualification entirely; now it all depends on how far one wants to go.

MR BECKETT: Mr Callow, in view of the fact of the mobility of the people now, we had a report here the other day that 29% of all the people in Canada receiving baby bonus move once a year.

MR COWLING: The reason I say that is I can well remember when the firemen and the policemen and everybody had to live right in town before they could work here. Now the situation has

changed, and if there's a qualified person that's acceptable to the electorate, what difference does it make whether he's five miles out of the municipality or 100 miles. The people will take care of the situation themselves.

MR CALLOW: That might possibly be so, but the

Metropolitan area is of course a very large area; it's not a severe impediment in the ordinary sense, because there was the previous five mile limit which was set; and it was regarded that this was some sort of limitation. This is preferable-you can live in Metropolitan Toronto and not be a member of Toronto City Council, because you would not be within five miles.

MR BECKETT: But you could live in North York and

be within five miles. (yes)

MR SINGER: Well a member of Council right now

lives in North York.

MR CALLOW: Oh yes, that is quite so-there are many...

MR COWLING: But why have the restriction of the

limit at all? If they don't live here and pay taxes in Toronto, then whether they live in Scarboro or Uxbridge, what's the difference.

MR CALLOW: Yes. Well all I can say is that the

Legislature at some point thought it should be within five miles...

MR COWLING: Well I'll move we change it. (laughter)

I don't think there should be a restriction on it at all.

MR BECKETT: Alderman Brown, do you want to comment on that?

ALDERMAN BROWN: No, I think that's one that will be

settled in due time; but I do have another one in 6 (b) and it is a personal comment; I brought it up in Committee and the Committee in substance agree with me, but when we took it up with the Solicitors, we found that there were so many Acts that it infringed upon, we decided not to do anything about it. So I bring it forward personally. It appears under 6 (b) on this page and it occurs on page 3. We have now and have had for some time, a Canadian citizenship, and the Queen is the Queen of Canada; there is a great deal of debate as to whether a British Subject does cover the whole thing. I realize this is an ent-

tirely legal question but this is probably an archaic thing that is held over from a lot of Acts from previous years. I would suggest that the Committee might well look into that to see if we cant become Canadian citizens.

MR BECKETT: We've already done that.

MR CALLOW: (continues, page 6, (7) "Penalty for removing.... .therefor." (page 7, line 2)

MR SINGER: When you consider the numbers of lists that are posted, there's not very many people look at them.....

CHORUS (Women Electors) Oh, yes.

MR CALLOW: Well why have them at all then, if they're just going to be torn down, and with impunity.

MR SINGER: Well this is a good point; I dont know whether it's in this Brief or not, but somewhere along the line, I think you suggest that you mail them to people. Now Federally, they do that and they are only mailed out to people whose names are on the Lists. And if your name is not on the List, then it isnt mailed out to you. There is a real problem about putting Lists in places where all the people will have an opportunity to check on them, but I dont know that either posting them or mailing them is the solution.

MR CALLOW: Well, as you say, they are mailed to persons who are on the List; and if a person doesnt receive it, he can at least check the List; but if the List is torn down, well...

MR SINGER: Well if the List is down at the bottom of his street and he happens to go that way, he might look at it; but if he doesnt pass that particular lamppost, he probably doesnt even know it's there.

MR COWLING: Well if he's interested, he'll take a look, and he'll find out.

MR THOMAS: Do you, Mr Cowling?

MR COWLING: Oh yes, always. (laughter)

MRS VICKERS: Mr Chairman, may I speak to this point?

First I want to say something about the problem of the five mile limit; I think if you look at this realistically, and you think of the munic-

ipal election, where you may have 26 candidates standing for office, very few of them can afford an extensive political campaign, and very few of them have an opportunity to be met and known, particularly if you are standing for the first time. The voters certainly all too frequently go to the polls with no knowledge of whether a man lives in Bracebridge or whether he lives in Toronto; and I think it's a rather important thing that the voter know whether he lives in this community or not. Now I grant you this is the voters' fault, but I think we all have to admit that too little is known about the candidate in the municipal elections. That's too do with the five mile limit. The other question I would like to speak to is the matter of polling lists and again from direct experience. I cant tell you how many people came into my polling booth at the last municipal election-it was the first time resident voters were exercising their franchise- and said:- well we didnt see any list; it disappeared a few days after it was posted. And I know, in the latest list, in the Federal election, our list was gone a few days after it went up. And this happens all too frequently

MR CALLOW:

(continues, page 7 (8) "Mailing of voters lists..... entitled to vote." (page 8, end of para 1) And there we see Mr Cowling's inquiry in connection with a definition of it as to how you are going to have uniformity if you are going to have the system in Ontario. The same qualifications apply throughout regardless of the level at which the voting is taking place.

MR BECKETT:

And that should be general legislation not the City of Toronto. (yes)

ALDERMAN BROWN:

Mr Chairman, I would think that this is one of the most important recommendations that we have made; and the Committee has considered it from other areas as well- the idea of voting machines has worked well in the United States and the idea of registration of voters has worked very well in the States for years... I dont suppose we'd want to register under the system as they do there..

MR BECKETT:

No, but it puts the onus on the person to see his name is on the List.

ALDERMAN BROWN:

And it makes much simpler the election

machinery, and cuts the expense down.

MR BECKETT: It's very practical.

MR CALLOW: (Continues, page 8, (12) "Change in form of oath.....held by the voter." This is a somewhat technical matter, it just has to do with the form which is at the back of the Municipal Act, should be in accordance with the qualifications set out in Section 37, and not at variance, which is now the case. Now that briefly is what that is. Now that covers the recommendations in connection with election procedure. The next matter pertains to instalment taxes." (continues, page 8, 2. Instalment taxes-..... and commercial property." (page 9, end para 3)

MR BECKETT: It must be based on that.

MR CALLOW: That's correct. (continues page 9, para 4) "Annual payments.....be given." I may say....

MR BECKETT: Is this based on them paying earlier?

MR CALLOW: Yes, at the same time as the interim levy is being made. I may say that insofar as real property taxes are concerned, for the first time, the City of Toronto this year has collected the interim levy, there are six tax installments; it has so far worked out very well; it has enabled the city to obtain a substantial amount of revenue early in the year before the tax rate is struck, and striking the tax rate in Toronto is quite difficult, because of the fact that we have to let Metro strike its rate first; so that borrowing has been reduced.

MR SINGLER: Have you an idea how much you've saved?

MR CALLOW: I couldn't say off hand, as to what the actual saving was.

ALDERMAN BROWN: In the neighbourhood of \$200,000.

MR SINGER: That's in interest? (yes)

MR CALLOW: So we suggest it should be suggested for business taxes and allow it to be on the commercial rate as well. (continues, page 9, 3)"Disclosure of Interest- Section 35..... deleted from Section 35 (3)(a)." (page 13, end of (c)) That is very complicated, but it is partly the reason why we are here.

MR SINGLER: It's a complicated subject, Mr Callow,

when I spoke for over an hour about this actually in the Legislature; I don't think I got through to anybody but.....(several talking)

MR BECKETT: I think we understand it all right.

MR CALLOW: Now Section 35, subsection (1) is the one which deals with the basic disqualification; and Section 35, subsection (3) contains various exceptions or it says that this subsection will not apply for certain reasons, one of which formerly was of his being a shareholder in an incorporated company having dealings or a contract with the Corporation. Now then the Legislature at the last Session, changed that provision, and said that the exemption from disqualification would apply provided the person was not in the position as a Director, a Manager, a Secretary-Treasurer, or an agent of some person having a controlling interest. And then tying that in with the provision dealing with disclosure of interests, the Legislature stated that where a person had a duty to disclose his interest in Section 198 (a) and to refrain from consideration and discussion of or voting on any question under subsection (1), fails to disclose his interest or to refrain from consideration or discussion of or voting on such question, he is not entitled to exemption from disqualification under clauses A, B, D, and L, or subsection 3 of Section 35. Now we think that has gone much too far; it's created some very very peculiar situations. As an example of how ridiculous a situation can arise, if a member of Council has a wife who holds shares in a company, and he fails to disclose that interest, he can be disqualified from sitting on Council, at the present time.

MR BECKETT: Whether he's living with her or not?

MR CALLOW: Yes, whether he's living with her or not.

MR MORROW: Or whether he knows about it or not?

MR CALLOW: He may not even know about it, but that

is the way that legislation is now framed; so what we are suggesting is that insofar as subsection 3 of Section 35 is concerned, none of those matters, we say, should result in a person being disqualified under subsection (1)-none of those things should result in his being disqualified provided that in the case of A, B, D, and L, for being a

shareholder, or being a lessee of the Corporation, or having an interest in a newspaper, those sort of things, he must disclose his interest in respect to those. That is what we would suggest would be the proper way of dealing with this matter. It is something which has caused tremendous concern to the members of Council, and it is something on which it is virtually impossible to give sound advice. This matter is much too evasive-much too difficult, and this is something on which no member of Council should be in any doubt whatever.

MR MORROW: That word "agent" there, Mr Chairman,

I dont know why they put that word there because I dont think they ever thought of an insurance agent. Because why should..if the City of Toronto is doing business with,we'll say the Dominion of Canada General Insurance Company, and Alf Cowling there is sitting on City Council, and he's an agent for that Company but not doing business with the City I dont see why he should be disqualified. I think that's ridiculous.

MR CALLOW: Not only that but that's one of the

instances from which he cannot excuse himself; he cannot automatically say, I'll disclose my interest; he would be disqualified.

ALDERMAN BROWN: Mr Chairman, while I'm in complete

agreement with this, unfortunately I was unable to be present at the last meeting- I was absent on city business- and there was one question that came to my mind in this submission, and I think there should be some qualification of it; I'm merely putting this forward as a suggestion, not being a lawyer- but about being a shareholder in an incorporated company, and I think there should be some kind of qualification there-something what you are talking about is someone with a controlling interest- that's the one you want to exclude ; but an alderman would have to disqualify himself on a subject because he had 200 shares of Canadian Pacific Railways stock- obviously it is ridiculous; I think if you're going to clarify it you should also strengthen; there should be something there that would not allow a majority stockholder or somebody owning a controlling interest. The way it reads plain "shareholders", it could be the sole owner of a company or somebody owning just one share. I may be wrong in my interpretation, Mr Callow, I did

not have an opportunity to discuss it.

MR CALLOW: This, of course was the opinion of the Council meeting.

MR SINGER: Mr Callow, are you not concerned with interests other than contractual in this light when a Councillor revokes in favour of a Reeve owning land owned by him. This isnt covered at all; it is one of the big gaps.

MR CALLOW: Yes, yes indeed.

MR SINGER: There are all sorts of interests that are not contractual interests; these interests in 35 and 198 are solely contractual and there is much greater conflict in non-contractual matters.

MR CALLOW: They are not covered at all-that is quite so. Certainly that is a matter that does need attention and well...

MR BECKETT: You could take that to extreme limits, in passing by-laws in regard to licensing...and regulating too.

MR COWLING: Well Mr Chairman, I think we all want to make it easier for good people to stand for municipal office; we dont want to make it more difficult.

MR SINGER: We can do this with sensible legislation.

MR BECKETT: Which we shall attempt to do.

MR CALLOW The next matter, Mr Chairman is annual remuneration of members of Council. (continues page 13, 4) "The annual remuneration.....from the annual remuneration." (page 13, end)

MR BECKETT: How long..how many meetings can he miss?

MR COWLING: Three months.

MR BECKETT: Then they can be absent for three months and still get their pay.

MR COWLING: I dont think the Women Electors would stand for that.

MR CALLOW: In Section 406, it is provided that every by-law passed under subsection 1, and that's the remuneration subsection, shall provide for the deduction from the annual allowance of a reasonable sum to be fixed by the Council for each day's absence

from ordinary meetings, and may provide that where a Councillor is absent from the municipality in the performance of his duties to the Council, or by reason of illness or a death in the family, the Council by resolution may provide that no deduction from his annual allowance shall be made in respect to such absence. So therefore every by-law dealing with this matter of remuneration must provide for a deduction being made for any days absence.

MR BECKETT: Anybody that is going to be absent for so many meetings or otherwise is disqualified.

MR CALLOW: Oh otherwise he's disqualified, yes.

MR BECKETT: So he could be absent for a whole and still draw his pay.

MR CALLOW: No, there would be no intention to do that. It just has to do with this provision now contained in subsection 406, paragraph 4.

MR BECKETT: Do you suggest any limitation on that?

MR CALLOW: It should be subject to not being sufficient to enable him to be disqualified; we certainly didnt go to that extreme and I dont think anybody would suggest that it should. What I think is it is a little too harsh now, say that every time you miss a Council meeting, in the case of Toronto is one day every two weeks - but if the alderman has been very busy doing his work in the meantime, we dont think, under those circumstances, there should be a deduction made from his remuneration.

MR BECKETT: But it's up to somebody to keep track them. (yes)

MR EVANS: What about the Mayor of all the people. (laughter)

MR CALLOW: Now the next matter pertains to finance.

(continues, page 15, 5) "Finances - Section 246.....to City."

(page 14, end para 1) Here, Mr Chairman, if it ended at the end of September, that would show the ordinary plain period. That would give an accurate reflection as to what the activity had been during the normal year. Now the year January 1st to the end of December is certainly not a normal year in so far as something like a hockey arena is con-

cerned, and so we think that this would show it a little more realistically what the financial picture was.

MR SINGER: Would you want a series of staggered financial years in the municipalities, depending on what they do?

MR CALLOW: It's perhaps not possible to have them all uniform; I don't know if there is any particular reason for having them all the same, and this is one instance where I think it can be justified in having a different financial period.

MR BECKETT: Supposing you had your fiscal year the same as the Province; would that assist...knowing what your grants would be in that particular year?

MR THOMAS: That would be March 31st.

MR CALLOW: I wouldn't want to say without the Treasurer being here to say what the result might be so far as other operations are concerned.

MR THOMAS: It would have some advantages, wouldn't it?

MR CALLOW: In some respects it might have, but I don't know what the repercussions might be- I wouldn't want to say.

ALDERMAN BROWN: It might hamper the installment payment of taxes....

MR BECKETT: Why? Because your tax rate would be based on your previous year anyway.

MR BECKETT: Yes, that's true; you're quite right.

MR CALLOW: (continues, page 14, para 2) "At the 1960-61 Session.... .. be desired." (page 14, end para 4)

MR SINGER: How many municipalities exceeding 400,000 are in Ontario?

MR CALLOW: Well there's one that we're interested in. (laughter) There may be some more shortly-it's hard to say.

MR BECKETT: Would you say that the City of Toronto could borrow from the Toronto Hydro?

MR CALLOW: No, we could not borrow from current funds. The Act as we read it now, it cannot be done.

MR BECKETT: The Township of Scarboro borrowed

\$100,000 from the Public Utilities Commission- there was amotion brought to the of Council..it's the corporate field and it's a separate corporation.

MR CALLOW: The Hydro in our case is not a separate corporation; it's not an incorporated body. We're set up under a special statute and not a body corporate.

MR EVANS: Why this figure in here of 400,000?

MR CALLOW: It could be extended in its application if the Legislature saw fit. There are often additional powers given to the larger municipalities; that of course is a matter of policy for the Legislature.

MR THOMAS: It could apply generally?

MR CALLOW: It could, yes. But once again this is a matter of saving money; it seems silly to have funds available that could be used temporarily, yet have to go an borrow pending the sale of debentures. That doesnt seem to be good business.

MR EVANS: It has its advantages in many municipalities.

MR CALLOW: That might very well be.

MR SINGER: There are other funds too. I dont know if Toronto has any 5 $\frac{1}{2}$ bonds but Scarboro, North York and Etobicoke have 5 $\frac{1}{2}$ funds which technically they're not supposed to use; and if they run out of funds they have to borrow even though in the trust fund they've got they have several hundred thousand dollars.

MR MORROW: It would go to Private Bills on that.

MR CALLOW: (continues, page 14, last para) "Since the revenue fund.....the revenue fund" (Page 15, end of para 1) That is to say we do make these short term finances in connection with monies that are not immediately needed; they are used to augment the capital account, although the interest on those funds is taken out of current. All that we're saying is that if we get interest by investing the money, that should go back into the current account.

MR SINGER: Is there any particular reason why there shouldnt be one set of funds like they do in the Federal Government?

MR CALLOW: Well you get into some difficulties there so far as the Municipal Act is concerned, because of the way in which they are so carefully required that capital funds be used for the projects for which the debentures are being issued; and they can not be used otherwise. And there are very severe limitations under the Municipal Act.

MR BECKETT: And if there are any surpluses, it's used to offset the debentures.

MR CALLOW: Either to offset the debentures or used for some other such purpose as may be authorized by the Ontario Municipal Board; but there are very severe restrictions in the use of those capital funds.

MR SINGER: While we're there we should consider if there's any real sense in maintaining those restrictions for the sake of better business and better use of the available assets- this is a serious question.

MR CALLOW: Well I think it is quite arguable, although there's nothing in here about it; but there certainly could be some freeing of the capital funds, and still maintain to some extent the purpose of the legislation. It seems to be much too complicated you'd have to slightly change the project; and then you'd have to go back to the Municipal Board to get the order amended; it doesn't seem to serve any practical purpose- it's just a delaying situation. But there are those very severe restrictions which could be reviewed.

MR BECKETT: And on the otherhand, Mr Callow, there is so much comment that you've got to have very strict regulations, otherwise the members of the Council are going to be lax in their duties, so it's better to keep it...I think in separate accounts.

MR CALLOW: Oh it might be quite advisable to keep it in separate accounts; I was just thinking of instances where it could be used for a capital project without tying it up to the same extent it now is, and there are so many applications to the OMB. We now come to some suggested changes in the Assessment Act. (continues page 15, 6) "Assessment returns by taxpayers-.....qualified to vote."(page 15,end of para 5) This gets into some of these election

things we were talking about earlier.

MR SINGLER: Do these meet with the approval of the Assessment Commissioner of the City of Toronto?

MR CALLOW: These changes came through the Assessment Commissioner.

ALDERMAN BROWN: Yes, Mr Chairman, our committee met with Mr Gray and others, and after a very great deal of discussion, and he pointed out all the things he was faced with and we talked it over with his approval. I might point out one thing that illustrates more than anything else what happens in an area. He told us that he wanted to get certain information, and this organization told him that they didnt have any information, but a Secretary of a political Riding Association wrote in and the list was sent out; in other words, it wasnt because it was a Riding Association, but anybody could have written in and got the information, but it wasnt available to the Assessment Commissioner; they turned thumbs down.

MR CALLOW: I know certainly in the returns of tax payers, in connection with per capita grant, that is a matter of very considerable concern; and it's costing the City and Metro a great deal of money; with little or no hardship on the part of everybody, that situation could be rectified if we could get an accurate determination of the number of people in the area. And then insofar as these other changes in base years are concerned, they are not only important for Metro; they are important throughout the Province because of the Province' equalization and so on which exist not in the Metropolitan area but outside of that.

MR VICKERS: Mr Chairman, I would like to point out that I feel this matter that Mr Callow has just mentioned has some bearing on Mr Robart's Housing Program. I think probably we are aware that in his research suggestion, Professor Daly, I believe, was going to do a survey on housing, its present and future depreciation and so forth; and I think it would be of great value to him if there were some standard of house to it. I was talking to him recently at a Conference and I know this is going to be one of his greatest problems to equate

property values throughout the Province in relation to housing. And I should think this would be of great assistance to the Housing Program for standardizing values.

MR SINGER: In addition to those suggestions, and I'm quite in agreement with them, the second part about base year and depreciation and that sort of thing. Does your committee have any thoughts on the question of assessing for actual value as the Act requires, or the uniformity and compulsive use of an Assessment Manual

MR CALLOW: When of course, we get into the matter of actual value, a lot will depend on what the base year is going to be. I mean the Act requires actual value to be the basis of assessment now; but actual value when? There is the problem. And I think that if there is a base year established, then we're much more likely to get something which will approach actual value.

MR THOMAS: Of that year? (yes)

MR BECKETT: Actual value is today.

MR SINGER: That's what it must mean; it can't mean 1940 plus 15.6%.

MR CALLOW: That is what was perhaps intended, but because of the peculiarities of the economy in the recent years, people rather have regarded conditions as being abnormal and prices as being inflated; perhaps they're not inflated any longer that's the normal price. But there basically is what the problem is. The Act provides for normal sale value and normal rental value and so on, and it is on account of that that we got into this issue of using base years. It's done all over.

MR BECKETT: Then suppose we had the conditions of 1935 here say, would you take your base year and then deduct?

MR CALLOW: I don't get the...

MR BECKETT: Well you take a base year...now take the City of Toronto, they say the year and then add a percentage (yes) 1940; if we change the conditions would you take that 1940 and deduct that 15.6?

MR THOMAS: Well if they were all done the same,

there be no difference-everybody would be equal.

ALDERMAN: We thought that was for replacement costs. It's really a little complicated.

MR SINGER: Really what we are arguing about is Mr Gray's idea of how to improve the Gray system, which has no real relationship to what is in the Assessment Act. There's no economic value in the Assessment Act....

MR CALLOW: The Act says actual value, and it says the factors which are to be taken into account in determining actual value, and actual value is supposed to be market value.

MR BECKETT: Which could go down too.

MR CALLOW: Yes, it could go down. Now what the proposal is here is that to get uniformity, not only in Toronto, but throughout the Province, there should be some uniform basis of dealing with matters of assessment; and if the Legislature will say:- this is the year which you're going to use for replacement costs, or for rentals and so on, then you will get that degree of uniformity. Now that is the thought that is behind the proposal.

MR COWLING: Well that's very good too and the best definition I've heard of actual value and market value is the amount of money a man wants for a property and another man is prepared to pay it.

MR BECKETT: Willingly.

MR COWLING: Yes that's it. Now that's just the whole thing in a nutshell; and call it what you may, that's the base, isn't it? (certainly) But what you're talking about is getting away from 1940. (yes)

MR SINGER: But surely it is the privilege of a City of Toronto assessor to use any base year he wants..

MR CALLOW: Oh, that is quite so, but this proposal as I say is to give not only uniformity in Toronto, but throughout the Province, so that the figures will bear some reasonable relationship one to another.

MR SINGER: That is a very difficult thing because nobody that we've seen, and we've had a half a dozen people talking

about the Assessment Act, is paying attention to what's in this Act as far as assessment is concerned.

MR BECKETT: As far as actual value.

MR SINGLER: Yes, as far as actual value. The people we had in this morning- the County Assessor of the County of Wentworth- he assesses through a third value...a third 1950 value.

MR CALLOW: And that is done all over; and it is to get away from that sort of situation that this proposal is being made. Assessors are going to use some sort of base year; the suggestion is they should be using the same base year.

MR BECKETT: Would that base year apply to all parts of the Province.

MR CALLOW: Yes.

MR BECKETT: Replacement costs would be different throughout the Province...building costs would be different in Windsor than in Sudbury.... whether it would be a base year or not...

MR CALLOW:and you would use perhaps the replacement costs and take that into account.

MR BECKETT: But your base cost would be different throughout the Province.

MR CALLOW: Yes and you will get into those variations and do get into them now in the way the Assessment Act is now framed. These are all things that even the Act...any circumstances that can guide you are supposed to be taken into account.

MR SINGLER: Have you done any thinking about provincial licensing and provincial standards for assessors?

MR CALLOW: Well the idea there is maybe rules for the guidance of assessors.

MR SINGLER: No, this is a different thing entirely; and I'm wondering that if, while you were discussing the whole assessment problem that this was discussed at all.

MR CALLOW: As to whether there should be some sort of licensing system? No, I don't believe so.

ALDERMAN BROWN: We skirted around it.

ALDERMAN CAMPBELL: Mr Chairman, one of the things which we

did discuss is not reflected specifically in this presentation but it was part of the thinking in the base year, at least as this applies to the City of Toronto, if the situation which occurs in a large metropolitan area where you do have large capital works, for example, which do cause difficulty assessmentwise, with somewhat weighted actual value, as you might say at the moment, anticipating future actual value; and this is another reason why I think the base year is more actual value was adopted by the committee and Council.

ALDERMAN BROWN: Mr Chairman, another member of the committee is with us, Alderman Alex Hodgins.

I. R. BECKETT: Thank you Alderman Brown, where is he... oh, I didnt see him and he's right there. All right Mr Callow.

MR CALLOW: The next matter, Mr Chairman, pertains to school supporters. (continues, page 16, 7) "Many changes in the assessment roll.....and a school board." (page 17, end para 2) If for example we open a Day Nursery in a church, that property becomes taxable, and it is that sort of situation which we are saying should be altered. They are both tax exempt bodies and therefore, if one tax exempt rents to another, then it should be the usual exemption.

MR BECKETT: But there are so many bodies exempt, not only under the Assessment Act but under the Private Bills. You make it very wide under the Act and Private Bills too.

MR CALLOW: Well of course the ones we have run into in our own particular case are those ones under the Assessment Act, particularly in relation to churches, and in connection with schools-those are the ones that we are concerned about as far as Toronto is concerned. The next item is "Goods liable to seizure for business tax." (reads, page 17, 9) "Amunicipality...be implemented!" (page 18, 11)

MR BECKETT: Just there, it has been suggested that a business tax be levied on multiple family dwellings; would that offset your vacancy loss....

I. R. CALLOW: I dont know how the two figures would...

MR BECKETT: You could increase your revenue with a business tax and maybe you wouldnt lose your revenue from vacancies.

MR CALLOW: Well of course that would be a supple-

mentary source of revenue that might be highly desirable as a business tax levy; but we 'd probably like the vacancy allowance eliminated too. We are looking for additional sources of revenue, I may say. (laughter) (continues, page 18, para 3) "At present the Assessment Act permits a refund....raised to \$100.00." (page 19, end.) This is somewhat obscurely worded. It means that where taxes are being collected, the tax paid would be less than on the amount of \$100, then the assessment would be deemed to be \$100, and the taxes collected on that amount. Now then we come to the Planning Act. (continues, page 20, line 1) "The provisions of this Act.... of the Legislature." (page 23 end para 2)

MR SINGER

Surely where you're being asked for a re-zoning or where you're being approached for a building permit, the average man is going to be happy to have a friendly little discussion with the architect on design, isnt he?

MR CALLOW:

Well the question which arises is as to how that is going to be enforced if there are some changes to be made; we cant make a change in a zoning by-law which is going to be conditional upon some agreements being made along those lines; you cant attach conditions to the amendment of the Zoning By-law. The Municipal Board can attach those conditions and it might desirable, I may say, that there should be some authorities to do so as a condition to amend the by-law. But that, I dont think, applies at the present time.

MR SINGER:

It may not be legal to do it, but I know where it is done frequently; and if you dont go along with the municipality, you dont get your By-law changed.

MR CALLOW:

You dont get your by-law that's so; but suppose you do get your by-law through and you dont adhere to the conditions. (laughter)

MR SINGER:

Well if it's in an agreement, it's registered on the title.

MRS VICKERS:

Mr Chairman, I'd like to draw the attention of the Committee to an example of what Mr Callow is speaking about very close at hand; it's the southern end of Walmer Road at Bloor where redevelopment is taking place in the last six months to the tune, I

think, of \$2 or \$3 million, where there was obviously no consultation or arrangement with a development officer and what was once a very beautiful street is now, in my judgment and I think yours too, rather sad and disfigured, and I think it is just by lack of a positive approach to the problem of good design in redevelopment of a street. I ask you to go and look at it, it's not very far away.

MR SINGER: I'm familiar with that situation; it

was a single family area and now there are apartments in it; and to do that it had to be re-zoned; surely the city could have laid down provisions for this development.

ALDEMAN CAMPBELL: Mr Chairman, I would like to point out

if I might, one of the particular aspects of this situation; this is the Rosedale Appraisal By-law. It was originally suggested in the report that in that area we should have town house development, and that this should be permissible use in the R1 zoning category. We have been trying, to answer you, Mr Singer, to define this in a zoning by-law; and it has not been possible to make this development both flexible enough and inflexible enough to at one time permit the design of the architect and at the same time to control it. This whole matter has been cut out and deleted because we cannot have this sort of architectural review. I think anyone in an R1 area in Toronto is most anxious today that we get this type of review, even if it be a specific part of...of course it would be over all. This is something that is so urgently needed that we do hope that another look will be taken.

MR SINGER:

Well let me tell you an actual case that I had before a certain municipality. We appeared on seven different occasions with plans and revised plans and models and what not until finally, we got something that was agreeable both to the Council and the ratepayers and the applicant; and it was by this constant revision and revision and revision, finally we got the zoning through the OMB; without it we wouldn't have gotten anywhere. There is your planning.

MR CALLOW:

But you see one of the problems that that entails is this, there is no authority where an agreement may be entered into as a result of which your re-zoning is going to be granted

there is no authority in the Planning Act or any other statute; they may be entered on the basis of agreements under the Planning Act in which the subdivisions were entered into for many years, but there is no strict authority for it, and perhaps there should be.

MR SINGER: Well, surely it always lies with the Council to refuse the re-zoning application,

MR CALLOW: It lies with the Council but it may be that the thing to be dealt with properly and with the assurance that the conditions which are going to be attached to it will be met and there is some legal way of enforcing them, that that problem wouldn't arise. But apart from that, the matter which you're raising, of course only would arise on a rezoning application and of course this proposal goes beyond that. (yes)

ALDERMAN BROWN: I think, Mr Chairman, as Mr Callow says it goes beyond City Council and I can assure you that it's been the most sticky and thorny during this last couple of years about any amendments to rezoning regulations. But all you have to do is look down the street here to what could be one of the most beautiful thoroughfares in the world and which is now clothed with boxes. We must realize that these things are important esthetically as well as any other way.

MR CALLOW: (continues, page 23, 15) "Local improvements are.....may be served." (page 24, end para 5)

MR SINGER: Don't you do these things?

MR CALLOW: Just so far as the leasing of concessions is concerned; it's not clear. We don't put up buildings but the question is what is meant by a concession. Now if we are reviewing the Act, we think that this is the time to clarify those things. It should have no doubt and it should make sense. (continues, page 24, last para) "Vandalism in City parks.....in the parks." (page 25, line 2)

MR SINGER: You're into a good one there.

MR CALLOW: Well the suggestion has been made and we think there is some merit...

MR SINGER: You haven't got any great support from

the Canadian Bar Association.

MR GORDON: Yes, and I think you'll find that many

of the delinquents are from families- poor families- that couldnt afford even \$20.

MR COWLING: Well that's too bad then, George, they'd

better keep them out of trouble. I like this \$1000.

MR GORDON: I read a piece in the Globe this morn-

ing where a boy of 9 has been in jail for 12 days.

MR CALLOW: Well of course that is something that

is up to the magistrate to deal with. All that we're saying is that there should be that power which he would have to impose a penalty greater than \$20. The circumstances may be that he would not seek to do so. But certainly \$20 in this day and age is a little ridiculous for the severe damage that has been done. And yet that would all that could be done.

MR COWLING: I emphatically agree with this, Mr Chairman all the way.

MR GORDON: The family might have one boy that is a delinquent and a little rascal, and he could financially embarrass.....

MR COWLING: Well it's up to them, George, to do something about it. After all they brought him into the world...

(chit chat re spanking the boy)

MR BECKETT: All right, Gentlemen.

MR CALLOW: The last one is added as an addendum re the Assessment Act. (continues, page 25, 17) "Proposed unearned increment tax... ultimately sold. Now this problem arises because of this factor of present value which has to be taken into account by the assessor in arriving at the actual value; and this is one means of trying to assist the municipality where an advantage, we feel, has been accorded to a property owner over a period of years, having regard to use the property is put.

MR SINGER: If it has been a result of rezoning neighbouring properties that his property has depreciated, are you supposed to give him a refund?

MR CALLOW: Well in that sort of situation, there

would be a possibility of him applying for a reduction in assessment in the regular way.

MR SINGER: But you're talking about levying a tax for a given period; in other words, you're trying to catch up something that happened in the past. You're not giving him any refund.

MR CALLOW: Yes.

MR BECKETT: No, but he will have the advantage of the reduced assessment.

MR SINGER: You'll catch him when the rezoning comes....

MR CALLOW: Yes, but he's had the advantage of a low tax rate...low assessment.

MR SINGER: But this is not the basis set out in the Act...

MR CALLOW: He is making an uneconomic use of the property. As I say it comes about as a result of this factor of present value, which is included in Section 33-it used to be Section 33 of the Assessment Act. Now this is a way of capturing some of that advantage.

MR SINGER: It's a good theory.

MR CALLOW: Mr Chairman, I have no further submission to make- I don't know whether any of the others....

MR COWLING: A very fine submission, Mr Chairman.

MR BECKETT: Has anyone any other point to make?

Any other suggestions?

ALDERMAN HODGINS: Mr Chairman I have only one question which has been bothering me, and it is under the conflict of interests.

MR COWLING: We gave that a pretty good go, Alex.

MR HODGINS: The point is that some of us may not be directors of a company that is involved; but we may have binding rights. But as such, not being an agent in the general term that is accepted as an agent, and I think that somewhere along the line that should be clarified. As I explained to Mr Cowling, there is a possibility that one of the insurance companies may be tendering on the proposition before the Council, and because of the fact that I represented them, that is by having a binding agreement, that I might be dis-

qualified from even taking part in a discussion which is no concern of mine; and I don't think that is what the intent is. I would like to see that made clear.

MR BECKETT: We have promised to look into those Sections dealing with disqualification. Any other members of your Committee who wish to say anything, Mr Callow?

MR CALLOW: I don't believe so. I wish to thank you Sir, Mr Chairman and Members of the Committee for the patience and attention that you've shown to this committee; it is greatly appreciated.

MR BECKETT: We thank you and the members of your committee for coming here and bringing this very enlightening Brief, and we will consider all your recommendations in due course. Thank you very much.

MRS VICKERS: Mr Chairman, May I also thank the Committee on behalf of our delegation and I also would also like to commend Mr Callow for presenting this Brief in such an informative way. I hope we can be assured that our Brief in support of the committee will be read; we have commented in our brief statement and I don't think any further discussion would add to anything. Thank you very much.

MR BECKETT: Thank you Mrs Vickers, and I want to say that we've already read your Brief. We thank you for coming and the rest of the ladies.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-THIRD MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

WEDNESDAY,
 JULY 4th, 1962

MORNING SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

J.D. George
 Col. F.S. McPherson
 N.H. Brown
 E.E. Parkinson
 W.A. Landon
 R.C.A. Pittis
 J.C. Paul
 C. Ross

PRESENTATION:

BRIEF - METROPOLITAN TORONTO PUBLIC UTILITIES

CO-ORDINATING COMMITTEE

METROPOLITAN TORONTO PUBLIC UTILITIES CO-ORDINATING COMMITTEEHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: I think we should get underway; Mr George would you like to introduce the members of your committee to the Members of our Committee?

MR GEORGE: Thank you, Mr Chairman. We have with us this morning, Col. F.S. McPherson, who is Secretary of the Committee; N.H. Brown who is Assistant Regional Manager of the Hydro-Electric Power Commission of Ontario; then there is H.E. Parkinson, who is Commissioner of Works, Village of Forest Hill; Mr Wm A Landon who will be coming in a bit later and he is the Chief Engineer of the Consumers' Gas Company; then there is R.C. Pettis, Utilities Engineer of the TTC; Mr J.C. Paul, Supervisor, Right-of-Way, Bell Telephone Company; and Mr Charlie Ross, from the Metro-Toronto Roads Department.

MR BECKETT: Now, Mr George, you may proceed any way you see fit; if you want to read your Brief or comment on parts of it, please proceed.

MR GEORGE: Well first of all, Gentlemen, I'd like to give out some of this material that I have here to make sure that everybody has got all the basic information; this is a revised copy of what was submitted to you before.... (distributes material)

MR BECKETT: Will you please explain what this is.

MR GEORGE: The plan that you've just got is the revised copy- an up-to-date copy of Plan No. S-1 showing the ideal location for utilities. It contains the recommendations of the Public Utilities Co-ordinating Committee as to how the utilities should be arranged to get the most out of them...to make them the most efficient. Then I gave out some papers I delivered some time ago before the City of Toronto Board of Control-you might be interested in them along with our Brief. Then I want to give out a letter and all the attachments that goes with it-it was sent to F.G. Gardiner, Chairman of the Metropolitan Toronto Council, and I might say we have the approval of the Metropolitan Toronto Council in our efforts here today.

MR THOMAS: Mr George, how was your committee appointed?

MR GEORGE: Our Committee represents all of Metropolitan Toronto area. The members are the heads or deputy-heads of their departments and their companies; and they are chosen by the company to represent...or by the corporation to represent that body on this committee.

MR BECKETT: You are a self appointed organization then?

MR GEORGE: Yes. We have no legal status. We are a representative body studying problems in respect to the operation of the utilities. May I proceed? Mr Chairman, Ladies and Gentlemen, Col McPherson and my colleagues are very happy (reads Brief)..... "City of Toronto" (page 1, para 2 line 7) Now Gentlemen, you havent got that plan; I only have one copy so I'm going to show it to you...I would like you to see the congestion in this area, Bay and Richmond. You see in colour the utilities that are underground...

MR BECKETT: Are there room for any more?

MR GEORGE: I'll leave that for you gentlemen to see. Actually the congestion is worse than this plan shows because it does not show any of the service connections to the buildings. (continues, page 1 para 2, line 11) "It is immediately evident... slow and expensive." At the last minute I made a little sketch here just to show you what happens when you put another installation in a congested place. Supposing you wanted to install a sewer-it's going to be 2 feet in diameter-it's not a large sewer. Now look at these existing Hydro cables, Bell Telephone cables, gas lines and so on that you have to contend with. And you cant put a machine in there to dig-mostly by hand you have to do it and this is very expensive. Now if those were properly placed according to the plan that you have, these would not interfere; you could dig with a machine and you could put that line in for very much less money. I see Mr Landon has just come in and I would like to introduce him to the Committee. (continues, page 1 para 3) "What is the reason..... and I dare say in the whole of Canada." (end of Brief) Thank you very much.

MR BECKETT: Col McPherson, would you like to comm-

ent on this for us?

Col McPherson: Of course I'd like to comment on this, Mr Chairman. After all I think we should all understand that when a street is widened, the municipalities must pay 50% of the labour costs; now the utilities must pay 50% of the ...the other 50% plus the cost of the material which is about two-thirds of the program.....

MR SINGER: Sorry, I cant hear you-would you speak up just a little?

COL MCPHERSON: I have some figures here for Metro-Toronto from January 1st, 1954 until June 27th, 1961 and the total cost to Metro for 50% of the labour to the three utilities, Bell Telephone, Consumers Gas and the Hydro was \$793,228 which cost double that and which the tax payer in the end must pay.

MR GEORGE: I must stress, Gentlemen, that this is half the cost of labour only. And this is only a very small case; there are hundreds of thousands of cases every year that are similar.

MR SINGER: Gentlemen, this is a very good solution; but what are you going to do about streets like Avenue Road and Yonge Street, Bay Street-you're never going to get road widenings there, are you?

MR BECKETT: They propose that they will get them; that's the part that.....

MR THOMAS: It's a long term project.

MR SINGER: Avenue Road, for instance or Bay Street?

MR GEORGE: Have you had time Mr Singer to read this..

MR SINGER: Yes, I've read this.

MR GEORGE: Maybe I should explain that; that is most important. When you think of a community, you think of a long long time; you have to if you're going to plan it properly. So let's take a hundred years if you like. Now suppose you had, fifty years ago, instituted by-laws that would set back buildings, say 10 feet. Now most of those buildings at that time were not built; so today you would have an 86 foot road instead of the 66 that you do have.

MR SINGER: Now this is fine if you have your by-laws and you havent got very valuable land, but the most expensive downtown corners in Toronto, where a square foot is worth what? \$1000 or

\$5000-you're not going to get the owners of those feet, no matter how small the pieces are to give up entirely a square inch of their property where the Bank of Commerce Building sits or where the Temple Building sits or Simpsons.

MR GEORGE: Well we're proposing that that building has got to deteriorate; and with the development of your transportation today, you can allow them in your by-laws to develop vertically. They'll give you ten feet if you allow them to put two stories on top; and why not? They have stone foundations-rock foundations; there's no limit of the height they can go as long as you can supply that building which is in itself a small city, you might say, supply services, transportation, power and....

MR SINGER: The average size of some of those lots is pretty small; my office is in the Temple Building and we are diagonally across the southeast corner of Richmond and Bay where a new building has just gone up that takes up every square foot of the land space available. Now if you take 17 feet off the Bay street frontage and 17 feet off the Richmond frontage, you wouldnt have had any room to build a building on.

MR GEORGE: That's correct in some cases; that's where some financial help must be forthcoming. Even today, when we expropriate certain strips to widen some of the Metro streets, we find that a man comes along and says: Well look, if you take this 17 feet off me, it affects my property too much. So we say: All right, we'll buy it. And we buy it and we find that we dont lose hardly any money, because when the improvements in the street come along, we can resell the amount that is left and give the first chance to the adjacent owner to enlarge his holding if possible. But anyway we dont lose very much on it.

MR SINGER: I can understand this as being feasible on a street like Eglinton Avenue or Lawrence Avenue, but I just cant see how it's going to work in downtown Toronto where the land is so valuable and the lots by and large are so small.

MR BECKETT: Mr George, if you maintain that compensation could be allowed if you could go up...you take part of their land,

say 10 feet downtown, and the compensation is that they can go up in the air another storey or so.

MR SINGER: Well I'm not too familiar with the City of Toronto bylaws- you've got buildings as tall as the Bank of Commerce and I suppose that building on the southeast corner of Richmond & Bay can go as high as they want it to go....

MR BECKETT: Oh, no, the City of Toronto have limits in how high they can go up.

MR GEORGE: It could be increased.

MR SINGER: Well there doesn't seem to be anybody anxious to go up as high as the Bank of Commerce building though; it's pretty expensive when you get into those heights.

MR GEORGE: I hate to say this but Montreal is getting them- I don't know why; they're much higher.

MR SINGER: Montreal has one, I know.

MR MORROW: What's the normal depth of those lots on King Street there?

MR SINGER: Well the corner I was talking about- I don't think there is anymore than what? 200 feet square- you're familiar with it... 300 maybe.

MR GEORGE: About that.

MR PAUL: Mr Chairman, we have tried to identify the problem and to identify an attempt at a solution and we have had examples-one is the example on Yonge Street that time. I don't think we are going to solve it in conversation. A walk-in arcade might be one solution. All you lose as far as the building is concerned is one floor.

MR BECKETT: In other words you mean they could build a set back- is that what you mean by that? And then build over it?

MR PAUL: Yes this is one solution-if they're going to use up so much of the lot that there would be not enough left to build on, maybe that is the solution. We see this in other cities, Chicago for example. Now we must identify the problem and then go out and find the solution.

MR GEORGE: If you were to study Chicago, I think you'd find that they've taken the first bay of every building- I hope

we dont have to do that, but we'll be forced to- but they have taken the first bay of a building and they have shoved the sidewalk into this bay to widen the road for vehicular traffic.

MR BECKETT: What would be an average width in Chicago?

MR GEORGE: Judging my own observations, I'd say they have much wider streets than we have, besides the fact that they have the sidewalk under the...in the first bay of the building. We'll be coming up against that same problem unless we look after it today and do something now which will be much easier.

MR THOMAS: To take the first bay of a building, and extend the sidewalk in, that would be very expensive, wouldnt it? And then of course you'd have to have supports for it on the part of the building above the sidewalk, wouldnt you? Wouldnt that be an obstacle there on the sidewalk?

MR LANDON: I dont think that would be necessary; you'll notice, Sir, in most of your big buildings, they usually bring a column structure right down through the centre of the building to the ground floor and that would then be cantilevered out.

MR EVANS: Mr Chairman and Mr George, on the utilities in the City of Toronto, when you're installing the facilities and you have to block off streets; can you block off streets and detour traffic legally?

MR GEORGE: Reroute traffic? Yes. The procedure is established. The Roads Department which is considered the owner of the streets gives out permits to the utility that wants to cut the road; and copies of those permits and the description is all there in the permit goes to the Police and to the Traffic Department and so on before hand, and they're all aware. If you dont have a copy of that permit on the job, the policeman could come to you and stop the work.

MR EVANS: For emergency though is it done; in an emergency you just couldnt go and block the street off...

MR GEORGE: There are cases of emergency and they're recognized; the utility company goes there and does the work and they put the application in afterwards.

MR BECKETT: But the city has the power to do this.

MR EVANS: But this has been brought to the Committee before; they wanted to give the foreman the power instead of the procedure you mentioned.

MR BECKETT: But it must be done by the City Council actually.

MR GEORGE: Yes, the power has to originate there.

MR EVANS: Do you think it should be changed so that in a case of emergency that maybe the engineer on the job would have the power to reroute traffic without going to the Council?

MR GEORGE: They dont have to go to the Council each time; Council has made all this system possible, and then the Departments carry that out, and they have in this procedure which is established, the conception that in the time of an emergency that application is put in later and when we of the Roads Department approve the application, it means that we are approving it under the authority of the Council.

MR BECKETT: Any other questions? Well do you want to proceed, Mr George or do you want any other member of your committee to comment.

MR GEORGE: Well if there is a member of our committee who would like to speak on it; Herb, have you anything to say?

MR BROWN: No, I think, Sir, you have put forward our viewpoint very well. The Ontario Hydro of course has a peculiar stand in this as we are not too much involved in the cities as are the other members of this committee. But we agree with the report in principle.

COL MCPHERSON: There is another point, Mr Chairman, that I think might be of interest; the PUCC was started in the City of Toronto in 1932, and at that time we started a combined map of all the underground services of all the utilities in the city. We're coming along with it- doing it for Metro at the same time. It's costing a lot of money but this is split by the city, by the HEP6, the Toronto Hydro, the Bell Telephone Company, the Gas Company and the TTC, so we will have in time a combined map of all the utility services underground in the City of Toronto and the surrounding municipalities. I might say at

the same time since this has gone along, Ottawa now has formed a committee and Hamilton has formed a committee, Peterborough, Oshawa, Kingston and Kitchener is forming one; it seems to be catching on.

(Col McPherson and Mr Morrow chat about Ottawa)

MR MORROW: Instead of the roads been torn up three or four times, it could be all done at once. I was wondering, Mr Chairman, if Mr George or Col McPherson could tell us if the Metropolitan Council has taken any action on the Brief that was sent to them last August.

MR GEORGE: Yes, Metropolitan Council is one of the many that have approved that Brief in principle; we have approval from the Metropolitan Council.

MR MORROW: Have they taken any particular action to facilitate the work of your committee?

MR GEORGE: No, nothing like that.

MR THOMAS: They've given you their blessing but up to now they've done nothing, is that it?

MR GEORGE: Well mind you, Metropolitan pays for their share of their dues for this committee.

MR SINGER: It has some of its members sitting with you, is that right?

MR GEORGE: Members of the Council you mean?

MR SINGER: No, I mean some civil servant; does Mr Clarke sit with you?

MR GEORGE: Well there are heads of departments...

MR BECKETT: Mr George, will you explain to everyone how you want a municipality like Metro to give you the blessing; how do you want them to act?

MR GEORGE: Well, as I see it, we have to start with a study to determine the best way to modernize a place; because it isn't humanly possible to foresee all the development. When that study has taken place, then it should be implemented with enabling legislation; and in different municipalities of each city it will have a need to encourage it, probably with financial help to modernize the system. I might add to what Col McPherson said the Metropolitan Toronto Public

Utilities Co-ordinating Committee has been a source of information to many other Ontario municipalities that are interested in the problem of utilities in widening the streets and so on; and we have had letters from many cities in the United States as well as our own cities in Canada; and all are forming similar groups along the same lines.

MR MORROW:

Winnipeg wouldnt have any use for it- it's about a half a mile to get across some of their streets as it is.

COL MCPHERSON:

Three or four years ago, the Engineer of the City of Vancouver came down here to see what he could find out; prior to that he had gone to a number of cities in the United States, and after he had looked ours over, he told us we had the best system in the whole of North America.

MR BECKETT:

What did they mean by the best system?

COL MCPHERSON:

The tying up to locations for utilities, the depths and that sort of thing. (shows map again) Just notice on this, here is the street, and you cant cut through this maze of lines and someday....

MR GEORGE:

Could I explain that, Gentlemen, I have a little more information on that that Col McPherson is bringing to your attention. If you look at your copies of the plan which we call the ideal locations plan, and we try to follow it with the additional lines; sometimes we cant follow it, but we follow as close as we can. Now why do we do it? If you will notice, you'll see that in the first place, an effort is made on the plan to keep the services away from the paved area so you dont have the interruption of traffic and the tearing up of the pavement which is not only expensive to everybody, but it ruins the pavement. Then secondly you'll notice that the shallow services, that is the Hydro, the Bell Telephone, the Consumers' Gas and the sidewalk, they're kept away from this paved area; and one reason for that is that the connections taken from those into the establishment do not bother other services; they are higher up and the deeper ones like the sewers and water and so on; they are kept in the middle because their connections go under the shallow services; and in this way they dont bother each other. So there's an awful lot of study and thought has gone into the making of these plans; there is logic for the arrangement

as shown in there. So we try to follow that as much as possible, but we cant follow it if we have a narrow street; we just have to put the services wherever you can, and later on you'll find you have to yank up some of these or else go underneath with terrific expense and tunnel. Now how can you tunnel? Well you can tunnel but it is an expensive method; first of all you have to go down a shaft to tunnel, bring all this dirt up and get rid of it, and then after you have installed the service, we have to bring material which is generally granular so there will be no settling, and that's expensive in Toronto- we have no more sand pits left- we bring it in and down the shaft and into the tunnel and pack it up as before, unless you want to line the tunnels. And we have to go deep enough to avoid all these services that are up above and avoid the settlement in buildings. Another thing I want to point out, if the services have to be repaired- the minimum services that have been shown on this plan- when you have trouble in one service and you go to fix it, and you dig there, it doesnt matter how you back fill that hole, in time the vibration and what we call the plastic flow of soil occurs and gradually you'll have settlement and depressions; and gradually the other lines-the pipe lines especially- they'll spring a leak and then you'll see your pavement not rolling but breaking up- a little pot hole there, and that's due to plastic flow underneath- a little moisture and a little vibration gradually comes in; so that these are things that ordinarily we dont think about, and yet they take place and cause an awful lot of trouble and expense.

MR MORROW:

As a matter of information, Mr George, when you were building the Yonge Street Subway, you must have had to take all those services all out of Yonge Street; did you incorporate them within the subway?

MR GEORGE:

No, they put them back again; you probably saw pictures of it, but anyway they put them back again on top and backed them again with the buildings on top of the subway structure.

MR BECKETT:

They didnt put them on the sides.

MR THOMAS:

They tunnelled below them....

MR PITTIS:

Mr Chairman, could I answer that? For example, University Avenue, Queen's Park and this is just what happened

there; our utilities are so tight from the Museum and also the Household Science building that we cant get any more in that location-no more utilities; so we're finished right there.

MR BECKETT: Where did you put the utilities?

MR PITTIS: On each side.

MR MORROW: Is there any attempt to use the tunnel itself or at least a part of the tunnel?

MR PITTIS: This is not practical; we need all the tunnel for our own purposes. We do use part of the structure for our own conduit etc; but it's pretty difficult to get it mixed up with.... let's say Bell, they want to break out the side of our subway to put in service but the subway would fall down. So we couldnt do that.

MR SINGER: We cant have the subway falling down.

MR GEORGE: That was just an example- Bell was- any other lines, no doubt it would do the same; water line, sewers etc, it would probably be worse; they'd probably flood the subway or we'd have condensation and dripping water which you wouldnt like on your subways.

MR BECKETT: So you cant use the subway itself?

MR GEORGE: That's right; it has to go on the side.

MR PITTIS: Just as a matter of interest, we are draining the Household Science building pool into the subway; that's the only thing we can do; we have to take it down this week- there is no room for it. (jokes re girls swimming in subway)

MR BECKETT: Now, Mr George, in connection with the plan, are there any other points you want to make to the Committee?

MR GEORGE: Yes, Mr Chairman, one other point- Col McPherson brought it up-I'd like to enlarge on it a little bit; one of the functions that our committee undertakes, I believe it's very important, the whole of the Metropolitan area is divided into blocks, blocks of land; and those blocks are subdivided into smaller blocks until you come down to the size of a utility plan which is what you see here in this plan which is 2' X 3' at a certain scale, which covers a certain area in Metropolitan Toronto. Now it is our aim that in time that we can put the plans together side by side and match them, you'll have the whole of Metropolitan Toronto area covered, and these plans will give

you the picture of all the services that go underground. Now you can see the benefit there; while the Hydro will have their own plan of their services and the Bell Telephone will have theirs and the Works Department will have theirs for the water and so on, but in order to have a complete picture of all of the services together to see what really is there at any one location, these are the plans that will show it; and in the case of emergency, you can look at these plans and see what is there. We use them all the time in developing the roads and so on; we certainly do; we get these plans out and say well whether we're going to dig Bell Telephone out or Hydro out or what.

MR BECKETT: Well then, Mr George, in connection with subdivisions, is this scheme being carried out in any of the municipalities?

MR GEORGE: Yes, Mr Chairman, this is followed as closely as possible in subdivisions.

MR PAUL: Mr Chairman, I would think for better identification, I'd say why the Bell Telephone is in the PUCC. I think this is an essential thing that we are provided a service and I would capsule our position being:- we are in the PUCC because we can coordinate and hence do a cheaper job for ourselves-self interest, let us say; we hope we can do a better job and a cheaper job by co-ordinating with the other utilities. I am a member of a regular association in the United States and Canada, and they all say:- How do you ever get along with that so-and-so gas company or those water works people? But this has all been solved and there is a benefit in dollars and cents to all the utilities by co-ordinating; and we'd also like to get into a location where we can stay, because the subway situation...as a matter of fact with some slight exceptions, we will not go back on top of subway; when we had to shift for the subway, we shifted over to Bay Street and now we are there we want to stop and put down cables that won't be moved again. So I would say we have a perfect setup and a very cooperative setup, especially as all utilities want to save money. We don't want to move our services now or four years from now-this is our objective.

MR LANDON: Mr Chairman, If I may speak for a second, I'm the Consumers' Gas representative here today. I spent three weeks

in New York City last September; I rode the subway system, but the thing which impressed me probably more than anything else, because of my particular interest, were the ads of Consolidated Edison in the subway trains that they're spending \$250 million a year to stay with the growth of New York City. New York City has not done what has been advocated here this morning. They have very narrow streets in the Wall St.-Broad St. area which is part of the business part of New York City. Obviously those new buildings are being supplied with the power, telephone, water, sewers, gas that they require; but when you look at this million dollar a day bill of Consolidated Edison, it shows the cost of this deep utility construction and is obviously being borne by the people using the lights, the telephone and what have you. New York City, just by its concentration, should probably have one of the cheapest power rates of anywhere; and while I was down there, they turned the big new hydro generator plant on that was about the size of our Richard L. Hearn Station in Toronto here, and then I found the few small square blocks of Manhattan that that thing was going to supply. It was fantastic as far as I was concerned. But they have their costs because of virtually no co-ordination. The City at one time had 26 gas companies and whenever you go to install it you have to wade through...well there were 23 gas pipes on one street that I know of. This is an amazing example of a complete lack of any coordination or cooperation between the various utilities. Consolidated Edison, just by being consolidated from a number of companies has done something towards eliminating some of it; but it's still very very bad. We ran a calculation here last year in Toronto just to see what the underground utilities do because unfortunately we represent ourselves much too well with a barricade on the street with the vehicles going around us. We found that if you should remove all the underground utilities from Metropolitan Toronto, and replace them with truck transport, that it would require an additional 250,000 fully loaded vehicles to supply these services to Metropolitan Toronto each day. That is converting the electricity and gas to fuel trucks, transporting the water by truck; sewage has to be removed the same way. Bell Telephone has to be converted into letters, but I made a sort of an attempt at

that and this gives the TTC no credit whatever for the volume of traffic they carry on each street. So if these utilities from time to time cause some blockage of traffic, I think you can see from that small example that we do relieve a tremendous amount of traffic on our downtown streets by eliminating this quarter of a million additional fully loaded vehicles every day.

MR SINGER: Is there a strong effort on foot to do away with utilities?

MR LANDON: To do away with utilities? No, I am just saying that we are forgotten in that we run normally underground; we're down there and you walk over us all day long. We never get in your way unless we dig a hole, and the only impression we create is a bad one; and I'm just trying to mention the good one that we are actually unsung. Our connection with the PUCC has been since its inception in the City of Toronto and with Metro, and we have found on numerous occasions where we have helped each other out, because our interest there is that we all have the opportunity to install underground; and although we may be competing with the Hydro for some of their water heating business or something like that, this is not the place to get into this competition. We want to get our facilities in underground, and we are not going to deliberately block each other; and the telephone company are competing with the various services too; but on the underground particular thing, we have all made a sincere effort to reduce each others costs, and I think this is for the good of the community at large.

MR BROWN: Mr Chairman, if I may give just a classic example of what the Public Utilities Co-ordinating Committee is for; the gas company representative on this committee has worked with us - outside we will tangle maybe - (laughter) but this is a classic example of what the committee is trying to do.

MR PARKINSON: I think, Mr Chairman, if I may, I'd like to say a word in respect to the working in the municipality. I've been ... I've sat on this committee now for the past five years and have had an opportunity to actually evaluate the vast amount of work that this group is doing. They have a substantial technical solid front of every municipality engineers and public utilities, and at long last, by virtue

these efforts, we are now finding ourselves in the position that every municipality is working 100% in co-operation with every other municipality, every other public utility; and I personally feel that the City of Toronto and the Province itself should feel very very fortunate in having a group like this that are studying and trying to overcome the vast problems that must be overcome; it would be quite easy for this group here to assume a laissez-faire attitude and do nothing about it. But we're not built that way. We recognize the problem; we have had the opportunity to assess it over the years, and we feel right now that when the right action is taken and brought before the proper committee- in this case the Select Committee-for action, something must be done and it has to be done. There is no use this setting aside and saying:- well this is a great presentation; you've brought the problem forward. Now that is very nice but it looks almost insurmountable; it is not insurmountable. As Mr George, our Chairman indicated, we're not talking in terms of one decade, two decades or five decades. We are talking in terms of the end result. Now I have been identified in the municipal business for over 30 years, and I can definitely say, as far as I'm concerned, that 30 years is a small span in any municipality's lifetime; and when we talk about 50 years or 100 years and of positive results that can be obtained, then I would say that this Province is a very fortunate province that it has a group like this prepared to bring the problem to you. Now in respect to these sideline setbacks in these main streets in the hearts of the main cities, every other large city is faced with it and many have overcome it. It's not going to be done over night; it is not going to be done just by this Committee here; it is only going to be done by effort and the concerted efforts of private interests, the municipalities, cities, public officials and the enabling legislation that can be brought forward by this Committee. Now it doesn't have to be in a positive vein, it can be the enabling legislation so that any area or municipality so disposed and feeling that they want to proceed with a properly planned modern system in these matters, may have that opportunity because of the amendment to the Municipal Act. Just while we're on this question here, I want to bring up a few observations after being

identified with building for quite a number of years and the zoning by-laws. I feel that the Municipal Act has failed and the Planning Act has failed, in respect to building, because their very fundamental requirement of good positive planning in respect of any apartment building or commercial building today is none other than landscaping. Now landscaping today is most important, not only to make it important that you provide that landscaping, but that you maintain it. Now there is no legislation. In Forest Hill for years we've tried to fight it through the Ontario Municipal Board; and over the years some of the members will remember, we've tried to write it into the zoning by-law. Now I can assure you that unless you have that kind of legislation, what are these buildings going to be; they're going to be shanty towns in a few years. Some of these old and badly constructed apartment buildings are going to be... instead of those, you're going to see full with balconies which we write right into a by-law. But we should have power to do that; we haven't got it today, but these are the kind of things that I think the Select Committee should welcome as suggestions from people who have had the experience, and fortunately, I'm glad to see one of our big problems is being taken care of, that is air pollution and that is a real head-ache. There, again, it's all tied up and linked with planning. Now I have taken up quite a bit of your time here, but I must say by the same token, I've been identified with municipal problems for 30 years; so therefore I bring them before you, and I can assure you that there is nothing that has been indicated by our Chairman of the committee today that is not possible of fulfillment, and I'm quite sure that this Select Committee will take proper cognizance of the importance of it and the grand job that this committee is doing in respect to all the area municipalities which is literally probably one of the highest paid technical groups - the members of this PUCC. We figure that at practically every meeting, we have 20 to 30 representing Toronto, all the major public utilities, and all the area municipalities, and every one of those municipalities today are benefiting by the result.

MR BECKETT:

Mr George, do you ask the municipalities to become members of your organization or what is the plan?

MR GEORGE:

Yes. We, as you might say, have asked them to become members, and the basis of membership in the township is, if the township is the owner of certain utilities, say, water and sewers and so forth; and then other corporations and bodies, like the Hydro; hydro in most cases are separate bodies or commissions, so they become separate members and they then represent a separate body; then there's the private corporations, such as the Bell Telephone and the Consumers' Gas Company, and they're represented as separate entities. And as far as the operation is concerned, a certain levy of money is made, according to the benefits derived by each corporate body which is a member of the Committee. The money mostly, nearly 95% of the money, is used for making these utility plans, similar to the one I've shown you today; and as I said they will cover eventually the whole of the area. And this money is actually spent for that purpose- for making plans.

MR BECKETT:

Then are these plans furnished to the different bodies?

MR GEORGE:

Yes. Right now we're doing them on a contract basis; we let them out and we find that at the present time that system is the most economical, to give them out to contract and we have a company that makes these for us and they cost \$160 a plan. They do all the surveying, and they make the plan, and they give us the original, that is reproducible- the main one- and from that, we get copies out - to all the members; we have a list of members and we supply them with one, and if they require more copies, all they have to do is ask and they will get more copies. Now Mr Chairman, I'd like to say that in complicated industrial development, I feel that the stress is on the word "co-ordination". Now unless we have co-ordination, we're not going to attain efficiency in our production and in our everyday life that we should do; but that we get it at a very high cost; and I think that co-ordination should be practised by the entire body and by the government; otherwise it just allows the different areas, probably not being able afford it financially, or they think they can't afford it; or they have not got the technical help and research and so on at their disposal, to remedy themselves today, so that tomorrow they will be no farther ahead.

MR BECKETT: Any Members of the Committee want to ask any further questions of Mr George? Any further comments you want to make?

COL MCPHERSON: If I could, Mr Chairman, the Municipal Telephone Act lays down that the telephone companies (balance inaudible)

MR BECKETT: Well you're an engineer; I think you could tell the Committee better than the Committee could answer that question. Do you think they should be under and not over?

COL MCPHERSON: Under or over, I dont know. As Mr George suggested that we be allowed to bring on a setback, then the lines would go under. That's very possible.

MR BECKETT: Well it becomes permanent.

COL MCPHERSON: Yes, permanent, and it's going to save the taxpayer a tremendous amount of money- how much, I dont know.

MR BECKETT: That's never been calculated?

COL MCPHERSON: No, but in Metro it would be a substantial sum.

MR GEORGE: Mr Chairman, one of the inquiries in the Brief that I submitted, I mentioned the fact that in a large community, we've just got to give and take. It's fine for us to say we've got to be democratic and so on- we all appreciate that; but it's not possible, as I see it, to live in a community of say 1¹/₂ or 2 million people, and for a person to hang on to all this so-called personal rights; in order for the whole community and for that person to benefit, he must submit some of those so-called personal liberties on his part, say, a transgression on land, in order that everybody including he himself will finally benefit. We're used to voting so much money for this utility and for that and so on, and budgeting at the beginning of the year, but we dont realize that we're going in circles, and it gets worse and worse and worse, because we, to date havent taken the action of co-ordinating and try to resolve our problems before this. I have no doubt there will be some objections and we have met them and talked with all types of people who have objected and it comes down to basics. In order to get into any establishment, be it a home or a business or whatever, you must pass by somebody else's establishment and he has to have all the services pass him in order to let you get into your est-

establishment, isn't that right? So you have to widen the streets and if you start from the other street and you come along, you get into your establishment and others will go along in order to get into theirs; as you come out, it's worse as it collects, it gets bigger and bigger and bigger. Well then you say: Well what are we going to do? And then I might suggest one-way streets. All right then, fine; sometimes they cause some problems but you have to have them in some instances; but that is actually the result of a vicious circle, starting in this case with a narrow street. You have to widen the street and a lot of these problems would disappear. So unconsciously we're working in those vicious circles that we have allowed to develop, and we have to turn them around.

MR BECKETT: Does that complete then, your remarks,

Mr George? (yes, Sir) Any other members of your committee now?

MR FITTIS: I would like to say one thing, Mr Chair-

man, on this, that this plan will save the TTC thousands of dollars; we use the plans and they are marvellous for our work.

MR BECKETT: Well Mr George, and the members of your

committee, we appreciate you coming here; we will give it a lot of thought and consideration, and if you have any more ideas in future, we'll be here and glad to see you with anything new you may have.

MR GEORGE: Mr Chairman, may I make one more remark?

As I see it today, Gentlemen, the facts we've stated along these lines I honestly believe is the solution, and I mean it. This is for the benefit of all of the communities because while many cities all over the United States and all over the world that have solved their problems most of them, I wouldn't say all of them, have solved them by money. But here's, I think, a new idea of co-ordination and long term planning; it can solve many problems with practically no cost. Thank you, Gentlemen.

MR PARKINSON: Mr Chairman, I'll just leave you with

one thought; I would like to see the kind of action in respect to this committee and if you have to refer to the Planning Committee, that's fine- certain aspects of it concerning the Municipal Act. But the kind of approach I would like to see is, this is a very substantial recommendation made by this highly technical group, who have proven themselves over the years; benefits are already evidenced. The munic-

ipalities are underwriting the costs of this group-substantial costs- and intend to so, and we're in the position of employers in respect to any other branch of government-Planning Board or any of them- put them on the defensive and say this- you prove to us why these recommendations shouldnot be accepted; prove this to us! Let them try to find the answer why it is not acceptable. If you just ask them for a submission you're not going to get anywhere; you've got to make them prove to your satisfaction that these are not proper and valid recommendations.

MR GEORGE:

I might add to that, Mr Chairman, that I have actually heard that oh, widening a street is just a detail; we cant be bothered about it. And I say that this is not a detail. I think that a building or a skyscraper and one of these new kind, that's a detail. What's a building? Sure a building is fine but when this kind of planning is done, you have all kinds of buildings-they come to you- you dont have to go after them. So it's putting stress on what is really important.

MR BECKETT:

Well Mr George, I am sure the Members of this Committee feel that you've done a lot of good work and certainly this is practical planning to plan that you're going to have your utilities placed in a certain position under a street and left there, and not have to be moved every time you make improvements. I know that when we've had subways built, such as Victoria Park Ave we had quite a removing of Consumers' Gas, Bell Telephone and so on; and this could solve that problem.

MR MORROW:

I wonder if they realize, Mr Chairman, that we have only recommending powers.

MR BECKETT:

Yes that's all-this Committee has that power but we will certainly give it a lot of consideration. Thank you.

LEGISLATIVE ASSEMBLY OF ONTARIO
 THE TWENTY-THIRD MEETING OF THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Committee Room No. 3
 Parliament Buildings
 Queen's Park
 Toronto, Ontario

WEDNESDAY,
 JULY 4th, 1962

AFTERNOON SESSION

HOLLIS E. BECKETT, Q.C.

CHAIRMAN

MRS H.G. ROWAN

Secretary

MRS E. EATON

Asst. Secretary

J.A. TAYLOR

Solicitor

MEMBERS:

Arthur Evans
 George T. Gordon
 Ron K. McNeil
 Donald H. Morrow
 Vernon M. Singer
 Thomas D. Thomas

APPEARANCE:

Mr D.K. Laidlaw
 Mr R.L. Hicks
 Mr T.M. Medland

PRESENTATION:

BRIEF - THE ASSOCIATION OF PROFESSIONAL ENGINEERS

~~APPEARANCE:~~

~~Mr O. Dalzell~~

~~PRESENTATION:~~

~~BRIEF - PARKS & RECREATION COMMISSION - SCARBOROUGH~~

THE ASSOCIATION OF PROFESSIONAL ENGINEERSHOLLIS E. BECKETT, CHAIRMAN

MR BECKETT: Gentlemen, it's 2 o'clock and we have a quorum; Mr Laidlaw, would you like to introduce your delegation* to our Committee.

MR LAIDLAW: Mr Chairman, I'm speaking on behalf of the Association of Professional Engineers; my name is Laidlaw, and I have with me today, Mr R.L. Hicks who is the Vice President of the Professional Engineers, and Mr T.M. Medland, who is the Executive Director of the Engineers. Now I would suggest that with the approval of the Chairman that I might read through the Brief with you gentlemen; it's reasonably short; it may be a duplication of effort but doing that, then I'd just like to amplify on one or two of the points that are made in the Brief and then I'd be pleased to answer any questions or observations that the Committee may have.

MR BECKETT: That's fine, that's fine.

MR LAIDLAW: Thank you, Mr Chairman. (reads Brief)
 "The Association.....(Chap 309 RSO 1960)" Just to amplify here, it has the responsibility of supervising the qualification of members of this Association in Ontario and disciplining its own members and also confining the activities of Professional Engineering to members of that Association. (continues, page 1, para 2) "We respectfully...
 one or more Professional Engineers." (end of Brief) Now if I may just expand on that Brief for a moment, what is sought to bring to this Committee's attention is a rather anomalous situation in our law now. Let us put it this way, and engineer, because that assumes the solution of one of the problems that we want to bring to your attention, an engineer or a person who's employed by a town or any municipality to fulfill these very responsible duties of a Corporation Engineer or a Town Engineer, is one not now required to be a professional engineer by any Section in the Act; it can be anybody whether he is professionally qualified by the Professional Engineers Association or otherwise. Secondly, his tenure of office is subject to the immediate termination

without cause being assigned or notice being given. I think it's basically those two problems that form the subject matter of this Brief. The first, if I may say, is a surprising thing when one considers the very responsible duties that an engineer has to deal with as a Town Manager; and I think I'm safe in saying that the smaller the municipality in a way, the more responsible the duties, because the more various duties he has to fulfill-they're not spread among different officers. Similarly of course, a large municipality, such as Toronto or Metro or Hamilton, London and those places, the engineer who is appointed by the Council, confines his duties mostly and mainly to engineering problems; but they are related-very much so- to the Building Departments, to the zoning by-laws and the Property Committees and so on; in the smaller municipalities, they may handle those functions as well, one or more of them. It would, by its very nature, I think, be apparent that it should require the services of a person who is professionally qualified to fill that position with engineering knowledge and experience. Now the body that has been set up under the Professional Engineers' Act, as the Association of Professional Engineers, is the body that is entrusted by the Legislature with qualifying these persons and satisfying themselves that they are sufficiently qualified to practise as such. I don't think I can labour this point any more than to bring most urgently to your attention that an amendment should be made to this Act in such a way as to provide that the appointment of a person to an office of Town or Corporation Engineer, should be confined to the appointment of persons professionally qualified as professional engineers to fill that office. Now the second and perhaps the main submissions that are made in this Brief are that, whether the man is a professional engineer or not, the person that should be performing these duties for a municipality is one who should have a wide scope of experience and should be the ablest man in the town or the corporation can procure for the job. I am reasonably confident that most people who apply for jobs as Town or Corporation Engineers don't know any more about the provisions or the operations of this Act insofar as this particular problem is concerned than perhaps the man on the street does. I think they all feel they can take a job or employment with the municipality

and be satisfied that they are getting the same rights and security of employment, if you will, that any man would taking a job in a private corporation. Very briefly, if they dont have an employment contract, then the law will imply that their employment is subject to termination only on reasonable notice; or alternatively, they can have a contract if they wish to do so and specify their own period of notice. Not to give that protection, which is a well recognized principle in our law, apart from this rather anomalous situation, to any person who hires on or seeks employment with a company or an employer of any kind- not to give that protection to the type of person that the municipalities would want to perform these duties, is to discourage the best men applying for the job. I think it's fair to say that most of the men would not want to take a job and bring that experience and that technique to a job, of which they could be turned out of office the very next day, without any recourse and without any protection to their salary requirements or their filling the void, if you will, until they seek other employment.

MR SINGER: Mr Laidlaw, may I interrupt you for a moment? (yes) Has there been any serious difficulty in the municipalities in obtaining engineers because of this that you are aware of?

MR LAIDLAW: No, but I....no I cant say that there has been honestly, to my knowledge. What I would like to say is I know the other side of the coin; the shock with which the engineer realizes when he has been turned out of office, and I have faced this problem; that he, in fact, has no security at all. Now, fortunately I dont think that's happened too often; I dont think it has to happen very often before the news gets around that anybody, who takes a job as a Town Engineer or Town Manager, is doing so at his own risk. I think the inherent weakness in the Act is there, and I submit that this is overlooked; it is a situation that has not been dealt with. I think it must be plugged before it does become a problem. Now most of the decisions which have interpreted these Sections of the Act are old ones; they go back about 25 to 30 years- I think it's the most recent one I could find for you; and if there are more recent ones, they simply apply the

older law. It's really back around 1915 and 1920. I used the word "anomalous" for this situation because I think it is that. Since 1925 to 1930, I think we're all well aware of the very extensive social legislation which has been enacted to protect almost every other working man and employee in the community right from labourers right up to the highest professional men possible; and yet this Act-this particular Section- has remained in substantially the same state as it was 25 or 30 years ago. Fortunately I don't think it has come to the notice of the Legislature because I don't think there has been to date, too much in the way of dispute over it; but it could and certainly it would only take two or three instances before you would have people reluctant to apply for these jobs.

MR SINGER:

You've got two additional protections though in working for a municipality; one is that we know the municipality has been in business for a long long time. Many engineers will have made a contract with a company that could pass out of existence; and this has been done in recent years, and the contract disappears; and the other is that there are, as a matter of course, in most of the municipalities very substantial fringe benefits.

MR LAIDLAW:

Well that's true.

MR SINGER:

Pensions and sick leave pay.

MR LAIDLAW:

I think probably that is not so true today that they are that much better in the municipalities than they are with private industry than it would have been say, ten to fifteen years ago. But I don't dispute the observation at all. What I do say is this, that the fringe benefits and the salary and the other emoluments, be they fringe or direct benefits can be terminated the day after the man is hired, theoretically. This evil is there, inherent as it may be today, perhaps the simplest thing to do is, ex abunda, let's plug it if it can be done without doing violence to the spirit of the Act or the intention of the Legislature. Now I don't think the Legislature ever really intended that this should be the case. Engineers were brought in as Officers of the town because of their very responsible duties; the courts have said:- Well even if they're not spelled out as Officers of the

town the way the Mayor and the Reeve and so on are, they in fact are, because of the responsible duties that they are employing. The justification, I think I can boil down to this:- In most of the decisions the courts have said the reason that Officers of the town or the municipality should be subject to discharge, without notice or cause, is because the municipality should be in the position to protect its rate-payers in dispensing with the services of persons in such a responsible position forthwith, without fear of reprisal by them. But on examination it really comes down to this, you're weighing, I think, that aspect against the legitimate request for protection of the individual in his job. Now any employee, anybody, the Officer, Reeve, Clerk or otherwise, can be turned out- he can be fired just like any other individual can be fired. He can certainly be dispensed with if he is say, delinquent in his responsibilities, discharging so poorly his Office, that in the opinion of the employers, in this case the municipality, his services are no longer required or necessary. He can be terminated the way any other employee in private industry can; if cause can be assigned to it, no notice nor severance is obliged to be paid to him. If cause cannot be assigned to his termination, then the only result is that the town is then obliged to pay a reasonable notice for the severance of his services. But as far as the protection of the municipality is concerned, you don't have to keep a man on in a job if he is not performing his job or he's no longer required, even if the decision is made for reasons of department cost- he can be turned out; just the way anyone in industry can. And all it leaves the discharged employee with is a claim for compensation for services if there is no cause assigned for his termination. And that really is all we're bringing before the Committee today; but it seems to me, with great respect to the Committee, that when one balances the justification that has been assigned by the courts on the one side, the protection of the municipality against the reasonable, and I think the well accepted principle now that most employees- all employees now, whether by legislation or common law, are entitled to a measure of protection in the security of their jobs, on the other hand; that we're not losing any of that so-called protection for the rate-payers in the

municipality because we dont ask you to say that an engineer should in any event be retained and his services continues for a definite period of time. That's not it at all; all we say is-dont put him in a position...sorry that puts it negatively; put him in a position where he cannot be terminated in his employment without the very same thing the very same conditions that any other employee is entitled to:-(a) cause being assigned or (b) reasonable notice being paid or pay in lieu of notice.

MR MORROW: What is considered , Mr Laidlaw, reasonable notice, 30 days? Is there any normal time?

MR LAIDLAW: Well I think I can answer that with some qualification. The notice- reasonable notice really depends upon the type of employment-the responsibilities of the employee. Let me give you an obvious example, a milkman could be given a week; a president of a corporation maybe six months to a year-somewhere in that range. You have got to weigh the responsibilities on the one side, the length of service and so on. Now while there is no real yardstick that I can give you-we've had a few of these cases, and the courts seem to be leaning towards-let's talk about a Town Engineer- no less than three months; and I think it would be unlikely it would be more than six. Now three to six. I think I can give you that range with a fair degree of accuracy. Oddly enough there have been a couple of cases, I think, where engineers have, under very peculiar circumstances, recovered damages for termination of their services where in that particular case they were held not to be Officers of the Town, and I think the damages were six months in one case; and in one particular case, he had a fixed contract for a year, so of course he got the balance of the year.

MR MORROW: Those who have contracts with the towns or cities.....

MR LAIDLAW: Well I dont think there is any because ...well I've never seen a contract because of this very provision. The municipalities cant write them with the engineers. They lay down their duties by bylaw- they may have a contract, but I have never seen it. Have you, Mr Chairman?

MR BECKETT: No, never heard of it.

MR LAIDLAW: There's nothing left to define. The

town as a rule will do this:- they will select the man they want for the job; they'll enact a by-law creating that appointment; they'll usually have a general by-law specifying of the duties of the town engineer or the manager whatever they call him. And then the man starts to work, and his duties or responsibilities are regulated by the by-law; the commencement of his office is fixed by the by-law. The only thing left to provide are reasons or notice of termination of the employment and that they cant do.

MR BECKETT: And his compensation is fixed by by-law.

MR LAIDLAW: True. Now it is really that one aspect

of the contract, if you will or implied contract that is not laid down that is the subject matter of our Brief today. And what we really ask is that the Town Engineer with all his responsibilities and duties, should be put in the same position, so far as the security of the tenure of his employment is concerned, as any other man who is working for private industry, and balance that against the justification ~~that the~~ courts have applied for not putting him in that position, on decisions that go back 30 to 35 years. The freedom of the municipality to dispense with the services of its Officers, and in my respectful submission to this Committee, the security of the tenure of employment of the individual outweighs that; because we dont ask that the municipality be tied to anything other than fair treatment of its engineers the same way that private industry is required to treat its senior officers. I think if you want to reduce it to dollars and cents, it could almost be done this way by saying, the most they would be leaving themselves open so far as the idea of the present trend of decisions would lead us, would be at a minimum perhaps without cause, termination of the employment forthwith, three months pay in lieu of notice- maximum, perhaps six months pay in lieu of notice. Most engineers, their salaries would run around \$10,000 to \$11,000 a year, and there you have it.

MR TAYLOR: Another thing, this is an action on

the part of the engineer too? It is a reversible action?

MR LAIDLAW: Yes, it is a two way street, but I

think you'll find nine times out of ten that the employers dont usually insist on it. When they come to that point they generally let their employees go but here actually there is cause of action by an employer against an employee for not giving any reasonable length of notice in order to permit the town to replace the employee. I think the result would be, if I may say so, that you would find that municipalities would be spelling this out in written instruments- contracts between the employee and the town, if the municipality were given power to deal with this particular feature of the terms of employment between them and the engineer.

MR SINGER:

If it is forcibly brought to their attention,...

MR LAIDLAW:

Yes if it is brought to their attention they say:- all right if you want to come here, we can get rid of you in a month, 2 months. Now no man can complain of that; He knows exactly what he's getting into and if he wants to make that contract, that all he gets, and he's bound to it. The way it is now, in a way it is rather a nebulous situation-I mentioned it briefly in the start of my comments to you that I'd be willing to lay odds that most engineers who accept these positions with the town, arent really aware of this- not because there's any underhandedness about it. I dont think anybody thinks about it, because most men when they're taking employment of this rather senior type, they dont talk about those kind of things with their prospective employers-they dont contemplate termination;they're more interested in getting at the job, in getting started, in doing a job for their employer the same way as the employer is anxious to get him going. They're dealing in a rather high salary range; they're dealing with..responsibly- and they both have mutual confidence and trust; but then when you come to the rather sad parting of the ways, they realize with a shock that they have no security at all; probably if they had thought about it at the time...if I had known about this, without in any way embarassing myself and my employer, I think I would have provided for something that would have given me something. You dont have young men as a rule-perhaps in the outlying municipalities- as Town Engineers, you have more responsible men, starting in at the early

thirtys' at the earliest and anywhere up- you have more senior men performing this task; and the older they get, the more responsibilities they have at home, the more personal responsibilities they have, the more rooted they become in their standard of living and it's really quite a shock to the one or two I've had to deal with; and for myself, I can say how very much of a shock to realize that their employment has been cut off, and that they're without any remedy at all. Now it may be that even the reasonable notice the law would allow wouldnt be sufficient, but at least it's giving him the same break that he would have were he retained in private industry.

MR SINGER: Or that his junior employees have, either at common law or in unions or in most offices and indeed by union contract.

MR LAIDLAW: That's right and that's the odd situation about it; because he's senior he's in this rather odd position, and only because he's so senior that he's regarded as an officer of the town.

MR BECKETT: What language do they use in the Section?

MR LAIDLAW: I think Section 239, Mr Chairman, is the one that really requires the amendment. I dont think there is anything that stands in our way in 377 or 379; but 239 is the real problem.

MR BECKETT: What would you add to it? It says "All Officers". The first thing to determine is he an officer.

MR LAIDLAW: Well it is determined now that he is an officer; either that or have him deemed not to be an officer- that would take care of the whole thing-that would be better, because it is only by the operation of 239, by the official interpretation, if you will, that Town Engineers are held to be Officers. There is nowhere in the Act that says that. I would suggest respectfully that Section 239 might have added to it a subsection that provided that under that "Municipal engineers shall not for any purposes deemed to be Officers under the meaning of the Section."

MR SINGER: Funny too; if this were valid for engineers, surely it would be valid for assessors or solicitors or clerks or any...what have you.

MR MORROW: Not solicitors. (laughter)

MR SINGER: It's not valid for Mayors or Reeves?

MR LAIDLAW: No, it's not valid for Mayors or Reeves
or elected officers.

MR SINGER: Oh no, the voters can deal with them.

MR BECKETT: Well there's only one member of a council installed now and that's a Reeve, under the Act.

MR MORROW: What about a clerk?

MR LAIDLAW: Well I suppose the clerk is in the same position as the engineer; he's not an elected officer.

MR EVANS: Or the assessor.

MR BECKETT: Assessor, Clerk and Treasurer.

MR SINGER: The only one you have to have is the Clerk; the rest you can do without.

MR LAIDLAW: The only reason I think it becomes a problem with engineers is...not that engineers are an unusual profession at all, but they have been specifically dealt with now by two or three decisions, all of which, by reason of their responsibility, have assumed them to be officers even though not specifically said to be so by the Act. The Clerk, I don't believe is named.

MR BECKETT: That's so. As a matter of fact Section 210, "The Warden of a County, the Mayor of the City or Town, the Reeve of a Village or Township is the head of the Council and the Chief Executive Officer of the Corporation." That's the only place that appears in the Act.

MR MORROW: Mr Chairman, haven't the Professional Engineers sent in a Brief to the Government this year?

MR LAIDLAW: Yes, but they have mostly dealt with proposed amendments to the Professional Engineer's Act itself.

MR BECKETT: Just your own Act. (yes)

MR MORROW: There had been several come in.

MR LAIDLAW: Yes, but this Brief doesn't conflict,

if I understand you, at all on the questions that have been put to another Committee. The exact wording of Section 239 or the proposed amendment to it, I think might run along the lines I have suggested that the Town Engineer or Municipal Engineer shall not be considered

or deemed to be an officer of the municipality; that would cure it because it is by reason of him being held to be so...

MR MORROW: It could be done very simply. (yes)

MR BECKETT: At the same time, the word "officer" doesn't appear in connection with the other, although it says here "all officers appointed"...

MR LAIDLAW: Well I think the trouble is, Mr Beckett, that an engineer is appointed-we'll start with that. And the courts have said that in that appointment, he becomes an officer of the municipality. And by doing so, 239 applies and he holds office during the pleasure of the Council. That's the root of the whole problem.

MR MORROW: Some loose terminology.

MR LAIDLAW: And if we can take it out of that category of officer under 239, that would cure the problem completely, I think the municipality would be in the position to make an employment contract or if it didn't, then just the ordinary common law would apply, and reasonable notice, whatever it is, under the circumstances would apply.

MR BECKETT: It would all become part of the contract then, salary, term of office....

MR SINGER: Why not delete the words in 239, "hold office during the pleasure of Council" that whole second line; wouldn't that do it very simply? And you don't get into this other confusion.

MR LAIDLAW: Well if you took that out, yes, that would apply to all equally who might subsequently fall into that classification. And it's really just as logical for anybody else who might later be deemed to be an officer. The same observations I've made would apply to them. Yes that would do it, because those are the words really. I think what then would happen, assuming the appropriate amendments were made, when an engineer was employed then by a town or a municipality, the municipality would be in a position to make a contract with him, providing for his term of office, his notice in the event of termination of his employment, both ways, for compensation, and all the other matters that any employer does deal with; but those are the three really that are in issue here. And if they didn't do so, the common

law would apply these principles. He would remain in office under a contract of general employment or general hire, terminable on reasonable notice. What is reasonable would depend upon his duties and responsibilities which could be three, two or six months- I cant be any more definite than that; pay in lieu of notice, or alternatively, if he was in some way misconducting himself in office, he could be discharged forthwith, without notice for cause. That really is the end result of it; and if I may say, I think it is a rather fair result on both sides. It would leave the municipality free to make their own bargain with the engineers, or failing to do that it would leave them with the common law which in effect is as I have previously stated.

MR BECKETT: Supposing a contract was made today by the municipality- the statutes are not...the Sections are not...

MR LAIDLAW: There has been, I think, one decision, Mr Beckett- maybe more than one- where they have held that because of 239, if you start with the proposition that the municipal engineer is an officer, it's ultra vires for the corporation to make any employment contract with him which would contradict or contravene the Section of the Act that he can only be retained during pleasure of Council. Take those words out and there's nothing that stands in the way.

MR BECKETT: You're assuming, of course, that the engineer is an officer? (yes) He is by decision? (yes)

MR SINGER: I suppose it depends to a certain extent on the wording of the original by-law.

MR LAIDLAW: Well I think the only answer to that is that a rose by any other name is still a rose. It doesnt matter what the municipality calls them; if he is in fact performing the function of a municipal engineer, he's an officer of the town or the corporation. I cant conceive how a corporation could draft a by-law in such a way as to change the nature of the animal itself. You can call him anything you like, but if his duties are such that he is performing the function of municipal engineer, that has been held to construe.

MR SINGER: But in some municipalities you might have several engineers; surely you couldnt count all except the top one as an officer- so designate them by other names.

MR LAIDLAW: I think that's right, you probably could; but somebody's going to be the goat.

MR BECKETT: After all it's really clarification.

MR LAIDLAW: That's right and I think the reason- the main reason for the submission to this Committee is that there is no reasonable prospect for the court being able to reverse itself, in that. Mr Justice Middleton gave a judgment and you just cant get around it. As we have so often heard, well we only apply the law; if there is anything wrong with the Act go to those who make them and see them; so here we are.

MR MORROW: I think it is a very reasonable request.

MR BECKETT: Well then Mr Laidlaw, would Mr Medland or Mr Hicks want to comment further?

MR MEDLAND: Mr Chairman, there are two points, Sir, in reference to Mr Singer's question- has this happened to anybody? We have two cases under investigation at the moment, a town engineer has been dismissed and our investigation is of course to find out if the engineer has been at fault; and we found out he was not. And the other comment is with reference to our suggestion that the word "professional" be inserted before the word "engineers" This has been happening in all the Acts passed before 1939 that are being brought up to date. The last one was the Mining Act which was amended at the last Session as you know, and where engineer appears in that Act now, it cites professional engineer. Thank you very much.

MR HICKS: There's nothing very much to say, Mr Chairman. I thought I knew what the word "officer" was but now I'm not so sure.

MR BECKETT: We're not either. (laughter)

MR HICKS: The other thing is while we are presenting this Brief on behalf of the Professional Engineers, the municipalities need to retain the highest type of professional people, and I think it should include the whole group of professionals, even though we can only speak for the engineers at this time.

MR LAIDLAW: Just this one last point, Mr Chairman, supplementing what Col Medland has said, the reference was there to

Section 379, subsection 60. The insertion of the word "professional" in front of "engineers" would really, in effect, bring that Section into line with the Ontario Professional Engineer's Act as it is now; whether it would be the municipality or any other employer who hires a man who would perform professional engineering duties, if he was in fact not a professional engineer, he could be prosecuted for it. He doesn't have any immunity because he works for a municipality, and the insertion of that word would not add really too much.

MR BECKETT: Under your present Act, he's deemed to be that.

MR HICKS: I think, Mr Chairman, the idea here is to make it clearer.

MR BECKETT: So that you don't have to go to another statute. Now where would you put that in? Sub 60, 379?

MR LAIDLAW: Yes, Section 379, sub 60.

MR BECKETT: In your statute now, does it determine who is an engineer?

MR HICKS: There is a definition- quite a long definition that spells it out.

MR MORROW: Do you recognize all graduates as engineers?

MR LAIDLAW: Well he may be or as a matter of fact, he may not be as long as he is qualified by the Association; either to write the examinations...the Association qualifies them and then the definition section spells out what he is professional engineer in; and then there is the prohibitive section- no person shall practise etc.

MR BECKETT: You don't need any written record put in sub 60 of 249 to your Act?

MR LAIDLAW: Under 379 (60) I think the use of the words "professional engineer" would maybe clear it up, because you can not use that term unless it is used in the sense that it is spelled out in the Professional Engineer's Act. I don't think we need any cross reference to it.

MR BECKETT: Well anything else, Mr Laidlaw?

MR LAIDLAW: Thank you. I am very much obliged.

MR BECKETT: Thank you and the members of you

committee for coming here; certainly in our review of the Municipal Act, we will give it consideration.

MR LAIDLAW: I'd like to thank you, Mr Chairman and the other Members of the Committee for the consideration you have given to us.

MR HICKS: I would like to add my thanks to those of Mr Laidlaw.

